

Gordon L. James
Robert M. Baldwin
Charles W. Herold III
Jay P. Adams
Jan P. Christiansen
Brian P. Bowes
Stephen A. North



Donald H. Zeigler III
Johnny R. Huckabay II
G. Adam Cossey^o
Margaret H. Blackwell*
Sara G. White
Casey Auttonberry
Larry D. McCarty*^

May 8, 2019

Writer's E-Mail: rbaldwin@hpblaw.com

*Also Admitted in Arkansas
*Also Admitted in Mississippi
*Also Admitted in Tennessee

Via Federal Expressw – Overnight Delivery

Regional Hearing Clerk (6RC-D)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

Re: In the Matter of:
Perdue Commercial Disposal, LLC
Docket No: CWA-06-2019-1740
Facility Number: ARU001210

Dear Clerk:

Enclosed please find the original and one (1) copy of an Answer to Administrative Complaint and Request for Hearing in the above-captioned matter. Please file same and return to me one (1) filed copy for completion of my file.

If you have any questions, please let me know. With kindest regards, I remain

Sincerely,

HUDSON, POTTS & BERNSTEIN, LLP


Robert M. Baldwin

RMB/jm
Enclosure

cc: Mr. Tucker Henson (6RC-EW) (w/enc.)
Mr. Gary Looney, Asst. Director (w/enc.)

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6

FILED
2019 MAY 13 AM 10:55
REGIONAL HEARING CLERK
EPA REGION VI

In the Matter of

Perdue Commercial Disposal, LLC

Docket No. CWA-06-2019-1740

Respondent

Facility Number: ARU001210

ANSWER TO ADMINISTRATIVE COMPLAINT AND REQUEST FOR HEARING

Now comes Respondent Perdue Commercial Disposal, LLC, through its undersigned counsel, and denies each and every allegation of the Administrative Complaint except as may be admitted below and answers each paragraph as follows:

I.

Respondent denies that it violated the Act as alleged or that it should pay any penalty in answer to the allegations of Article I of the Administrative Complaint.

II.

1. Paragraph 1 of Article II of the Complaint is admitted.
2. Paragraph 2 of Article II of the Complaint is denied in that Respondent did not operate an oil field production facility.
3. Paragraph 3 of Article II of the Complaint is denied.
4. Paragraph 4 of Article II of the Complaint is denied.
5. Paragraph 5 of Article II of the Complaint contains allegations that are legal conclusions and requires no answer, but to the extent that it does, Respondent pleads the cited statutes and all regulations related to them as the best evidence of their

- contents and denies all efforts to vary or contradict the specific terms and provisions the statues and related regulations.
6. Paragraph 6 of Article II of the Complaint is denied as stated. No oil field brine was discharged from the facility, the facility had been closed since 2017, and the Total Dissolved Solids does not prove any different.
 7. Paragraph 7 of Article II of the Complaint is denied as there was no discharge from the facility as alleged as the facility had been closed since 2017.
 8. Paragraph 8 of Article II of the Complaint is denied as there was no violation.
 9. Respondent lacks sufficient information to admit or deny Paragraph 9 of Article II of the Complaint.
 10. Respondent lacks sufficient information to admit or deny Paragraph 10 of Article II of the Complaint.

III.

11. Respondent denies the allegations of Paragraph 11 of Article III of the Complaint.
12. Respondent denies the allegations of Paragraph 12 of Article III of the Complaint.
13. Respondent lacks sufficient information to admit or deny Paragraph 13 of Article III of the Complaint.

IV.

14. Paragraph 14 of Article IV of the Complaint requires no answer.
15. Paragraph 15 of Article IV of the Complaint requires no answer.
16. Paragraph 16 of Article IV of the Complaint requires no answer.
17. Paragraph 17 of Article IV of the Complaint requires no answer.
18. Paragraph 18 of Article IV of the Complaint requires no answer.

19. Paragraph 19 of Article IV of the Complaint requires no answer.

V.

20. Respondent requests a hearing to contest all material allegations of the Complaint and the and the appropriateness of any penalty in this matter as there was no violation, no discharge, and even in spite of that, Respondent did major work to the area alleged to have been affected by an alleged discharge all in full compliance with the requests of the Agency and replied a full report and accounting to the Agency of these activities.

21. No answer is required as a hearing has been requested above.

22. No answer is required as a hearing has been requested above.

VI.

23. No answer is required to the allegations of Paragraphs 23-25 as they related to matters of settlement and continuing obligations. Respondent is now out of business and defunct, there are no continuing activities there and have been none since 2017.


24. Respondent shows that it has not been properly served with process or a copy of this Complaint but files this Answer in earnest to prevent further delay.

25. Further Answering the Complaint, Respondent shows:

On July 25, 2018, Respondent received a letter with attached Administrative Order from the EPA Director Cheryl Seager alleging a violation that was identified on February 8, 2018, during an inspection. Respondent replied on July 25, 2018, explaining that the facility had been closed since September 2017 for cleanup which was documented for the EPA in a report with pictures and invoices. The reply further explained that on December 14, 2017, some fluid was taken, but the well was shut down permanently at that time due to a loss of pressure and the water taken was hauled

away from the facility in January 2018. Tickets for the hauling were provided with the reply. As there were no fluids on site, there were none to be discharged as alleged. The initial permit which was provided with the reply indicates the “The facility is located 446 feet from an unnamed tributary to Mill Creek in Stream Segment 2D of the Ouachita River Basin which is listed in the latest ADEQ 303 (d) list of impaired waters. There are numerous old production wells in the area, some plugged and some not. Some are still in production.” The reply also pointed out that this facility was only used to accept trucked fluids, and did not take fluids from any of the local wells by way of flow lines. With this historical perspective and the fact that no fluids were taken at the facility after December 14, 2017, any TDS found on February 8, 2018, cannot be attributed to any activity at the facility. Furthermore, the presence of total dissolved solids does not prove the release of pollutants, and certainly not from a facility has not had any present for months.

Respectfully submitted,
HUDSON, POTTS & BERNSTEIN, LLP
Post Office Box 3008
Monroe, Louisiana 71210-3008
T: (318) 388-4400; F: (318) 388-2758



ROBERT M. BALDWIN #01224
Attorney for Respondent

CERTIFICATE OF SERVICE

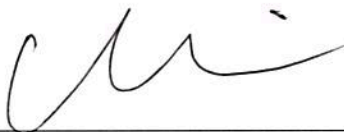
I certify that this Answer was filed and served as indicated below:

Federal Express: Regional Hearing Clerk (6RC-D)-Original and one copy
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

U.S. Mail: Mr. Tucker Henson (6RC-EW)
U.S. EPA, Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

U.S. Mail: Mr. Gary Looney, Assistant Director
State of Arkansas Oil and Gas Commission
El Dorado Regional Office
2215 W. Hillsboro St.
El Dorado, AR 71730

This 8th day of May, 2019.



ROBERT M. BALDWIN