



May 8, 2024

Caleb Osborne  
Director of Environment  
Division of Environmental Quality  
Arkansas Department of Energy and Environment  
5301 Northshore Drive  
North Little Rock, AR 72118

**Re: Notice of Anticipated Noncompliance**  
**4741-WR-9 (Crawford County)**  
**5257-WR-2 (Crawford County)**  
**5335-WR-2 (Crawford County)**  
**5094-WR-2 (Sebastian County, Nutrient Surplus Area)**  
**5297-WR-2 (Franklin County)**  
**5333-WR-1 (Sebastian County)**

Dear Mr. Osborne,

Denali is writing to inform you and the Office of Water Quality that, in compliance with our permit conditions, we anticipate noncompliance of the above-mentioned permits. To explain: given conditions described below, we at Denali are experiencing a situation where we are at risk of needing to inform our customers (i.e., large food processing plants in the state) that we cannot service them. As you may be aware, if Denali can't serve the aforementioned plants, which are critically important to Arkansas and the broader region, those plants will be facing shutdown. Instead, we endeavor to keep them operating by continuing to process the waste water residuals they produce, but in order to do so we expect the following violations due to the forecasted inclement weather coming in the near term:

1. Land application will occur within 24 hours of an expected rainfall event.
2. The permitted lagoon in Permit 5257-WR-2 will have less than 2' of freeboard.

Despite our diligent efforts to maintain compliance under challenging circumstances, we are left with no alternative due to the following reasons.

1. The northwest Arkansas loads of food processing residuals that we haul use to be land applied in Missouri and now have to be hauled to Denali's Crawford, Franklin, & Sebastian County, AR land application sites. This was an unexpected increase in volume due to the abrupt change in 2023 of Missouri's permitting requirements, driven by abrupt and unexpected changes from the MO DNR and MO Fertilizer Control Board. In turn, the inability to take AR loads into MO has



overburdened our equipment capabilities and storage volume in AR during periods of inclement weather in AR.

2. We have not been able to diversify these loads due to the lack of permit approvals from the Department, resulting in them remaining concentrated in one operation (i.e., one set of fields).
3. The excessive rain this spring and our current permit rule that requires Denali to discontinue our land application operations 24 hours prior to a rain event, has not allowed us to "catch up" our storage volumes from the winter, causing our storage lagoons for inclement weather periods to now be almost full.

During periods of noncompliance Denali will self-impose the following requirements:

1. All land application within 24 hours of a rainfall event will be subsoil injected.
2. Land application will cease prior to a rainfall event when we believe we have enough storage volume to store loads during the rainfall event. If possible, we will cease land application at least 12 hours prior to the rainfall event.
3. When land application occurs within 24 hours of a rainfall event, an additional 100' (200' total) buffer will be added to streams and neighboring surface waters and an additional 50' (100' total) to property lines.
4. We will work diligently to maintain more than 2' freeboard in the lagoon, and will not allow the freeboard limit to fall below 1'.

Denali is dedicated to restoring compliance with our permit requirement across our operation as soon as we can. Upon achieving compliance, we will inform the Department and disclose any violations.

If you have any questions or would like any additional information, please give me a call.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Tilley".

Marcus Tilley  
Environmental Engineer  
(501) 581-1208

A handwritten signature in blue ink, appearing to read "Gabe Timby".

Gabe Timby  
Senior Environmental Director  
(479) 518-1554

A handwritten signature in blue ink, appearing to read "Brinkley Israel".

Brinkley Israel  
Environmental Manager  
(479) 366-3854