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Solid Waste/Tire Enforcement: Arkansas Department of Environmental Quality, Woodruff County, Arkansas, Circuit Court Filing Involving Brinkley Company

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The Arkansas Department of Environmental Quality (“ADEQ”) filed a June 27th Verified Complaint and Request for Injunctive Relief (“Complaint”) against an individual and TriState Contracting of Brinkley, LLC (collectively “TriState”). See No. CV 2018-75.

TriState is described in the ADEQ Complaint as an Arkansas company with a principal address in Brinkley, Arkansas.

Most ADEQ enforcement actions are pursued through an agency administrative process. Those procedures are incorporated in Arkansas Pollution Control and Ecology Commission Regulation No. 8. However, ADEQ has the authority to seek judicial remedies through several of the statutes it implements.

The ADEQ Complaint describes a scenario in which the agency had pursued administrative remedies against TriState through a Notice of Violation and ultimately obtained a Recommended Decision from an Arkansas Pollution Control and Ecology Commission Administrative Law Judge (“ALJ”). The ADEQ Complaint describes the issuance of a Notice of Violation against TriState in regards to certain alleged violations at a site in Cotton Plant, Arkansas. An ADEQ Notice of Violation is stated to have alleged multiple violations of the Arkansas Water and Air Pollution Control Act, Arkansas Solid Waste Management Act, and certain agency regulations. ALJ Recommended Decision is stated to have been adopted by the Arkansas Pollution Control and Ecology Commission listing certain findings of law that constituted violations.

The Complaint alleges that civil penalties assessed by the Arkansas Pollution Control and Ecology Commission have not been paid and that the agency received a complaint regarding tires at the Cotton Plant, Arkansas site. ADEQ personnel are alleged to have investigated the site and observed approximately 400,000 tires, along with other material. The agency alleges that TriState has not completed certain closure requirements mandated by the ADEQ regulations and that an environmental hazard is present that must be remediated.

The causes of action found in the Complaint include:

- Count One: Failure to Comply with an Order Issued by the Arkansas Pollution Control and Ecology Commission

- Count Two: TriState Operated and Maintained a Waste Tire Site that must be Remediated Pursuant to Arkansas Law
- Count Three: TriState Violated the Illegal Dump Eradication and Corrective Action Program Act

The Complaint requests that the Woodruff County Circuit Court require that the individual pay a civil penalty in the amount of \$20,950. It also requests that injunctive relief be provided ordering TriState to immediately cease all unpermitted tire disposal at the site and to immediately begin closure and remediation of the site pursuant to certain cited regulations. Further, it is requested that a Temporary Order compelling TriState to remove and dispose of all tires at the site in accordance with certain regulations be issued and that, upon TriState's further noncompliance, a permanent order be issued which allows ADEQ access to the site to remove and dispose of all tires and obtain reimbursement for such.

Additional civil penalties and costs are requested, along with attorneys' fees.

A [copy of the Complaint](#) can be downloaded here.