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Hazardous Waste Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and Morrilton Vehicle Repair Facility Enter into Consent Administrative Order

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The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and D.E. Jones, Inc., (“DEJI”) entered into an April 8th Consent Administrative Order (“CAO”) addressing alleged violations of Arkansas Pollution Control and Ecology Commission (“APC&EC”) Regulation 23 (Hazardous Waste Regulations). See LIS No. 21-031.

The CAO provides that DEJI owns and operates a vehicle repair facility and a vehicle towing facility (collectively, “Facility”) in Morrilton, Arkansas.

The Facility is stated to qualify as a small quantity handler of universal waste (“SQHUW”) as defined by APC&EC Regulation 23 § 273.9. SQHUWs are prohibited from accumulating more than 5,000 kilograms of universal waste at any time.

DEQ is stated to have received an anonymous complaint on September 18, 2019, alleging that DEJI had been discarding used oil, diesel, and antifreeze on the ground of the Facility for over 10 years. The complaint is also stated to have alleged that DEJI had allowed the area surrounding the Facility’s oil tank to become saturated with oil and was covering this oil with gravel, tires, and wrecked automotive vehicles.

DEQ is stated to have conducted a Complaint Investigation at the Facility on October 16, 2019.

The CAO states that upon DEQ’s arrival at the Facility on October 16, 2019, DEQ was denied access to the Facility by DEJI. Such denial of access is stated to have prevented DEQ from conducting the Complaint Investigation that morning.

The CAO provides that:

This denial of access prevented DEQ from conducting the complaint investigation that morning. Denying access to a facility in order to impede a complaint investigation violates Ark. Code Ann. § 8-7-225(c), which states “The division or any authorized employee or agent thereof may enter upon any public or private property for the purpose of obtaining information or conducting surveys or investigations

necessary or appropriate for the purposes of this subchapter." Denying access to the facility also violates Ark. Code Ann. § 8-7-205(1).

DEQ is stated to have obtained an administrative search warrant from the Circuit Court of Conway County, Arkansas, on October 16, 2019. Such administrative search warrant was granted and DEQ personnel performed the investigation on October 16, 2019. No additional significant violations were stated to have been observed during the investigation.

The ADEQ investigators were stated to have observed the following secondary violations:

- Failure to clearly label used oil containers
- Failure to identify and maintain records of all hazardous waste
- Failure to contain damaged universal waste batteries in a closed container
- Failure to label or clearly mark each container of universal waste
- Failure to demonstrate accumulation time of universal waste

DEQ is stated to have conducted a follow-up Complaint Investigation on January 16, 2020, of the Facility and observed that the alleged secondary violations noted during the initial inspection that been corrected.

A civil penalty of \$2,500 is assessed.

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