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# Arkansas Pollution Control and Ecology Commission Administrative Law Judge Recommended Decision: Alleged Cotton Plant, Arkansas Facility Violations

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Arkansas Pollution Control and Ecology Commission (“Commission”) Administrative Law Judge (“ALJ”) Charles Moulton issued a December 21st Recommended Decision addressing alleged violations by Tristate Contracting of Brinkley, LLC (“Tristate”). See Docket No. 16-002-NOV (Order No. 7).

The Arkansas Department of Environmental Quality (“ADEQ”) had previously issued a Notice of Violation (“NOV”) alleging certain violations by Tristate which included:

- Maintaining a solid waste disposal facility without a permit (Reg. 22.150(a))
- Managing solid waste in a manner that harbored vectors (Reg. 14.702)
- Causing air pollution through open burning (Reg. 18.602)
- Transporting waste tires without a valid waste tire hauler license (Reg. 14.1103)
- Improperly storing waste tires indoors (Reg. 14.1401)

On October 10, 2017, the ALJ held an evidentiary hearing to address certain ADEQ claims.

ALJ Moulton had previously granted summary judgment in favor of ADEQ on the issues of:

- Maintenance of waste tire Site
- Operation of an unpermitted waste tire processing facility

The ALJ found that Tristate and an individual, (Huhanned Zameer) had a contract to purchase property in Cotton Plant, Arkansas (“Site”). Tristate’s business was stated to be located there.

An ADEQ inspector is stated to have visited the Site on a number of occasions, citing various alleged violations such as an illegal dump. The presence of waste tires and construction demolition debris at the Site is referenced.

Mr. Zameer is stated to have testified at the evidentiary hearing that the construction and debris material at the Site were intended to be used to add on to an existing warehouse. Further, he testified that neither he nor his employees dump trash at the Site.

ADEQ personnel testimony included reference to the observation of mosquito larvae in tires at the facility and partially burned solid waste in a burn barrel. Mr. Zameer testified to by-weekly spraying to control mosquitoes and that limbs were burned in the burn barrel for workers to keep warm.

Agency testimony also included allegations that the pathway inside one of the warehouses was three- to five-feet wide and that tires were stored in the warehouse “almost to the ceiling”. Such storage was alleged by agency testimony to constitute zero separation distance between the tires, violating applicable fire codes (including absence of sprinklers).

The ALJ concluded as follows to the previously referenced five violations addressed at the evidentiary hearing:

Violations of Solid Waste Management Act. ADEQ was found to have failed to prove, by a preponderance of the evidence, that Tristate violated Ark. Code Ann. § 8-6-205(a)(1), and (a)(2), (a)(3) and Reg. 22.1502(a) regarding the presence of household trash and construction/demolition material at the Site.

Burn Barrel. ADEQ was found to have proven, by a preponderance of the evidence, that Tristate violated Ark. Code Ann. § 8-4-310(a)(2) and Reg. 18.602.

Vectors. ADEQ was found to have proven, by a preponderance of the evidence, that Tristate violated Ark. Code Ann. §§ 8-4-101 et seq. and Reg. 14.702 as it relates to vectors and a public nuisance.

Waste Tire Transport. ADEQ was found to have not proven, by a preponderance of the evidence, that Tristate violated Reg. 14.1103 by transporting waste tires without a license.

Improperly Stores Waste Tires. ADEQ was found to have proven, by a preponderance of the evidence, that Tristate violated Reg. 14.1401.

The Recommended Decision also undertakes a civil penalty analysis and calculation (including an assessment of apportionment penalties between Zameer and Tristate). A total penalty of \$20,950 is assessed.

The ALJ’s Recommended Decision can be adopted or rejected by the Commission.

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