

**ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF
ENVIRONMENTAL QUALITY**

IN THE MATTER OF:

**ROBBIE'S TRUCK REPAIR, LTD.
2107 EASTLINE ROAD
SEARCY, AR 72143
EPA ID No. ARR000030411
AFIN 73-01299**

LIS 20- 171

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority of the Arkansas Hazardous Waste Management Act of 1979, Ark. Code Ann. § 8-7-201 *et seq.*, the Remedial Action Trust Fund Act, Ark. Code Ann. § 8-7-501 *et seq.*, and the Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation No. 23, APC&EC Regulation No. 8, and APC&EC Regulation No. 7. The issues herein having been settled by the agreement of Robbie's Truck Repair, LTD. (Respondent) and the Division of Environmental Quality¹ (DEQ), it is hereby agreed and stipulated by all parties that the Findings of Fact and Order and Agreement be entered.

FINDINGS OF FACT

1. Respondent owns and operates a truck and vehicle services facility located at 2107 Eastline Road in Searcy, White County, Arkansas (the Facility).
2. Respondent generates used motor oil through truck repair and vehicle services, including oil changes, fluid checks, and mechanical maintenance. Respondent is a Small Quantity Handler of Universal Waste (SQHUW) pursuant to the definition of a SQHUW defined at APC&EC Reg. 23 § 273.9. A Small Quantity Handler of Universal Waste is "a universal waste handler who does not accumulate more than 5,000 kilograms total of universal waste at any time."
3. Ark. Code Ann. § 8-7-204(c) provides that each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment and authorizes DEQ to

¹ Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiencies Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the newly created Department of Energy and Environment.

assess an administrative penalty not to exceed twenty-five thousand dollars (\$25,000) per day for violations of any provision of the Arkansas Hazardous Waste Management Act (the Act) and any regulation or permit issued pursuant to the Act.

4. Ark. Code Ann. § 8-7-205(1) states, “It shall be unlawful for any person to ... [v]iolate any provisions of this subchapter or of any rule, regulation, permit, or order adopted or issued under this subchapter....”
5. On December 3, 2018, DEQ conducted a complaint investigation at the Facility. The investigation report was mailed to Respondent on January 14, 2019, and is incorporated herein by reference. ‘’
6. Based on the findings of the complaint investigation, DEQ identified the following violations of APC&EC Regulation 23 Section 279:
 - a. Respondent failed to label or mark clearly containers used to store used oil with the words, “Used Oil.” DEQ identified approximately one hundred twenty (120) 55-gallon used oil containers that were not properly labeled or marked. Failure to properly label or mark these containers violates APC&EC Regulation No. 23 § 279.22(c)(1), which states in part, “Containers ... used to store used oil at generator facilities must be labeled or marked clearly with the words “Used Oil.” Failure to properly label used oil containers also violates Ark. Code Ann. § 8-7-205(1).
 - b. Respondent stored used oil in containers that were not in good condition. DEQ identified approximately one hundred fifteen (115) 55-gallon containers that were rusted, exhibited signs of structural defect, or both. The use of containers that were not in good condition violated APC&EC Regulation No. 23 § 279.22(b)(1), which states, “Containers...used to store used oil at generator facilities must be in good condition (no severe rusting, apparent structural

defects, or deterioration).” Failure to use containers that are in good condition also violates Ark. Code Ann. § 8-7-205(1).

- c. Respondent failed to stop the release of used oil to the environment. DEQ documented approximately eight areas that exhibited pooling or stained soil from used oil releases. Failure to stop the release of used oil to the environment violated APC&EC Regulation No. 23 § 279.22(d)(1), which states, “Upon detection of a release of used oil to the environment...a generator must stop the release.” Failure to stop the release of used oil also violates Ark. Code Ann. § 8-7-205(1).
- d. Respondent failed to contain the released used oil. During the investigation, DEQ inspector observed eight (8) areas surrounding used oil containers that were stained with oil. One (1) of the areas contained a spill flow path, approximately 50 (fifty) to 60 (sixty) feet in length, observed flowing from the containers. Respondent did not take actions to mitigate or contain the eight (8) areas with pooling or staining from released oil. Failure to contain the used oil violated APC&EC Regulation No. 23 § 279.22(d)(2), which states, “Upon detection of a release of used oil to the environment...a generator must contain the released used oil.” Failure to contain the used oil also violates Ark. Code Ann. § 8-7-205(1).
- e. Respondent failed to clean the areas of released oil. During the investigation, DEQ inspector observed eight (8) areas surrounding used oil containers that were stained with oil. Respondent did not take actions to clean up the eight (8) areas with pooling or staining from released oil or manage the waste. Failure to clean up and manage the used oil violated APC&EC Regulation No. 23 § 279.22(d)(3), which states, “Upon detection of a release of used oil to the

environment...a generator must clean up and manage properly the released used oil.” Failure to clean up and manage the used oil also violates Ark. Code Ann. § 8-7-205(1).

- f. Respondent failed to repair or replace leaking used oil containers prior to returning them to service. During the investigation, the DEQ inspector observed approximately ninety-one (91) used oil containers across the Facility that were in poor condition. The barrels all appeared weathered and rusted, and several barrels were observed to be bulging. Failure to repair or replace the leaking oil containers violated APC&EC Regulation No. 23 § 279.22(d)(4), which states, “Upon detection of a release of used oil to the environment...a generator must..., if necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.” Failure to repair or replace leaking used oil containers also violates Ark. Code Ann. § 8-7-205(1).

7. On February 18, 2019, Respondent submitted to DEQ a response to the complaint investigation. An additional response was submitted to DEQ on February 18, 2019. The response was deemed inadequate.

ORDER AND AGREEMENT

1. Respondent shall perform the following:
 - a. Upon the effective date of this CAO, Respondent shall conduct an Internal Compliance Audit of all hazardous waste management practices and related activities. The Internal Compliance Audit shall be of sufficient scope to identify any instances of noncompliance with applicable hazardous waste management requirements, whether identified by the aforementioned investigation report or not.
 - b. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ a report describing actions taken to achieve and maintain

compliance with respect to any instances of noncompliance revealed by the Internal Compliance Audit. This report will be subject to approval by DEQ. If DEQ does not approve the report, in whole or in part, Respondent shall undertake any additional actions identified by DEQ to achieve and maintain compliance with all applicable requirements.

- c. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ photographic documentation demonstrating used oil containers are properly labeled and marked as detailed in APC&EC Regulation No. 23 §279.22(c)(1).
- d. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ photographic documentation demonstrating used oil containers are in good condition as detailed in APC&EC Regulation No. 23 § 279.22(b)(1).
- e. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ photographic evidence that the released oil was stopped.
- f. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ photographic evidence that the released oil was contained.
- g. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ photographic evidence that the released oil was cleaned and documents indicating that the oil was properly disposed of.
- h. Within ninety (90) calendar days of the effective date of this CAO, Respondent shall submit to DEQ for review and approval a Sampling and Analysis Plan (SAP).
- i. Within thirty (30) calendar days of SAP approval by DEQ, Respondent shall submit to DEQ a clean-up or remediation plan.
- j. Within thirty (30) calendar days of the effective date of this CAO, Respondent shall submit to DEQ documentation, including but not limited to photographs,

invoices, and receipts that all damaged or leaking used oil containers in service have been repaired or replaced.

2. Respondent shall submit to DEQ one (1) electronic and one (1) hard copy of all reports, documents, plans or specifications required under the terms of this CAO.
3. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of **TWELVE THOUSAND FIVE HUNDRED** (\$12,500.00), or one-half of the full civil penalty of **SIX THOUSAND TWO HUNDRED FIFTY DOLLARS** (\$6,250.00) if this CAO is signed and returned to the Office of Land Resources, Enforcement Branch, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas, 72118-5317, within twenty (20) calendar days of the effective date of this CAO. Payment is due within thirty (30) calendar days of the effective date of this CAO. Such payment shall be made payable to DEQ, Attention: Fiscal Division, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317. In the event that Respondent fails to pay the civil penalty within the prescribed time, DEQ shall be entitled to attorneys' fees and costs of collection.
4. All submittals required by this CAO, excluding the requirement for the payment submittal in Paragraph 3 above, shall be emailed to olrenforcement@adeq.state.ar.us and submitted by Certified Mail or hand delivered, to Rebecca Rathe, Office of Land Resources, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.
5. All submittals shall be subject to applicable review fees pursuant to APC&EC Reg. No. 23 § 6(t).
6. All requirements of this CAO are subject to approval by DEQ. In the event of any deficiencies, Respondent shall, within the timeframe specified by DEQ, submit any additional information or changes requested, or take additional actions specified by DEQ to correct any such deficiencies. Failure to adequately respond to a Notice of Deficiency within the timeframe specified in writing by DEQ constitutes a failure to meet the requirements established by this CAO.


7. If Respondent fails to submit to DEQ any reports or plans, or to meet any other requirement of this CAO within the applicable deadline established in the CAO, DEQ may assess stipulated penalties for delay in the following amounts:
 - a. First day through the fourteenth day: \$250 per day
 - b. Fifteenth day through the thirtieth day: \$1,250 per day
 - c. Each day beyond the thirtieth day: \$2,500 per day

These stipulated penalties may be imposed for delay in scheduled performance and shall be in addition to any other remedies or sanctions which may be available to DEQ by reason of Respondent's failure to comply with the requirements of this CAO.


8. Respondent shall notify DEQ within five (5) calendar days of knowledge of any delay or potential delay in complying with any provision of this CAO, specifying in detail the anticipated length of the delay, the precise cause of the delay, and the measures being taken to correct and minimize the delay. Such notification or request for extension shall be made in writing and prior to the deadline.
9. DEQ may grant a written extension of any provision of this CAO, provided that Respondent requested such an extension in writing and provided that the delay or anticipated delay has been caused by circumstances beyond the control of and without the fault of Respondent. The time for performance may be extended for a reasonable period, but in no event longer than the period of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances beyond the control of and without fault of Respondent and the length of delay attributable to such circumstances shall rest with Respondent.
10. Nothing contained in this CAO shall be construed as a waiver of DEQ's enforcement authority over violations not specifically addressed herein; nor does this CAO exonerate past, present, or future conduct which is not expressly addressed herein. Nothing contained herein shall relieve Respondent of any other obligations imposed by any local, state, or federal laws, nor shall this CAO be deemed in any way to relieve Respondent of its responsibilities for obtaining or complying with any necessary permits or licenses.

11. This CAO is subject to public review and comments in accordance with Ark. Code Ann. § 8-4-103(d) and is therefore not effective until thirty (30) calendar days after public notice of the CAO is given. DEQ retains the right and discretion to rescind this CAO based on comments received within the thirty-day public comment period or based on any other considerations which may subsequently come to light. Additionally, this CAO is subject to being reopened upon APC&EC initiative or in the event a petition to set aside this CAO is granted by the Commission.
12. By virtue of the signature appearing below, the individual represents that he or she is an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than an Officer of Respondent shall be accompanied by a resolution granting signature authority to said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 10th DAY OF September, 2020.


BECKY W. KEOGH
DIRECTOR
DIVISION OF ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

ROBBIE'S TRUCK REPAIR, LTD
BY: Signature 
Print or Type Name Robbie Marsh
Title owner
Date 8-10-2020