

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

**IN THE MATTER OF:**

**D.E. JONES, INC.  
207 UNIVERSITY BOULEVARD  
MORRILTON, AR 72110**

**LIS 21- 031  
EPA ID: ARR000031195  
AFIN: 15-00978**

**CONSENT ADMINISTRATIVE ORDER**

This Consent Administrative Order (CAO) is issued pursuant to the authority of the Arkansas Hazardous Waste Management Act of 1979 (the Act), 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 D.E Jones, Inc. (Respondent) and the Division of Environmental Quality<sup>1</sup> (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 vehicle repair facility and a vehicle towing facility located at 207 University Boulevard, Morrilton, Conway County, Arkansas (the Facility).
2. The Facility qualifies as a small quantity handler of universal waste (SQHUW) as defined by APC&EC Regulation 23 § 273.9. SQHUWs do not accumulate more than 5,000 kilograms 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 assess an administrative penalty not to exceed twenty-five thousand dollars (\$25,000) per day for violations of any provision of the Act and any regulation or permit issued pursuant to the Act.

---

<sup>1</sup>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.

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, permit, or order adopted or issued under this subchapter[.]”

5. On September 18, 2019, DEQ received an anonymous complaint alleging that Respondent had been discarding used oil, diesel, and antifreeze onto the ground of the Facility for over ten (10) years. The complaint also alleged that Respondent 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.

6. On October 16, 2019, DEQ conducted a Complaint Investigation at the Facility.

7. Upon DEQ’s arrival at the Facility on October 16, 2019, DEQ was denied access to the Facility by Respondent. 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).

8. On October 16, 2019, DEQ obtained an administrative search warrant from the circuit court of Conway County, Arkansas. The administrative search warrant was granted, and DEQ personnel returned to the Facility on the afternoon of October 16, 2019 and performed the complaint investigation. No additional significant violations were observed during the investigation.

9. During the complaint investigation on October 16, 2019, DEQ investigators observed the following secondary violations:

- a. Four (4) used oil catch pans and one (1) 5-gallon container of used oil. None of the five (5) containers of used oil were labeled with the phrase “used oil.” Failure to clearly label used oil containers, violates APC&EC Regulation No. 23

§ 279.22(c)(1). Failure to label used oil containers also violates Ark. Code Ann. § 8-7-205(1).

- b. An unmarked 55-gallon container holding an unknown liquid. Inspectors were told the owner and employees did not know the contents, and thus were unable to make a waste determination. Failure to identify and maintain records of all hazardous waste violates APC&EC Regulation No. 23 § 262.35(a)(1). Failure to identify and maintain records of hazardous waste also violates Ark. Code Ann. § 8-7-205(1).
- c. Eight (8) universal waste batteries, among which was one (1) damaged battery with a split case. The damaged battery was not contained in a closed container. Failure to contain damaged universal waste batteries in a closed container violates APC&EC Regulation No. 23 § 273.13(a)(1). Failure to contain damaged universal waste batteries in a closed container also violates Ark. Code Ann. § 8-7-205(1).
- d. None of the eight (8) observed universal waste battery containers were clearly marked or labeled with the phrase “Universal Waste – Battery(ies),” “Waste Battery(ies),” or “Used Battery(ies).” Failure to label or clearly mark each container of universal waste violates APC&EC Regulation No. 23 § 273.14(a). Failure to properly label universal waste batteries also violates Ark. Code Ann. § 8-7-205(1).
- e. Accumulation start dates for any of the eight (8) universal waste battery containers were not documented. When inspectors inquired to Respondent, no documentation of battery collection, offsite transportation, or accumulation dates could be provided. Failure to demonstrate the length of time universal waste had been accumulated violates APC&EC Regulation No. 23 § 273.15(c). Failure to demonstrate accumulation time of universal waste also violates Ark. Code Ann. § 8-7-205(1).

10. On December 5, 2019, DEQ notified Respondent of the October 16, 2019 complaint investigation.
11. On January 15, 2020, Respondent submitted a response to the October 16, 2019 complaint investigation addressing the secondary violations.
12. On January 16, 2020, DEQ conducted a follow-up complaint investigation of the Facility and observed that the alleged secondary violations noted during the initial investigation had been corrected.

### **ORDER AND AGREEMENT**

1. In compromise and full settlement of the violations specified in the Findings of Fact, DEQ assessed a civil penalty of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00). Due to Respondent's efforts to return to compliance, DEQ shall DISMISS the full civil penalty of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00).
2. All submittals required by the CAO shall be emailed to [olrenforcement@adeq.state.ar.us](mailto:olrenforcement@adeq.state.ar.us), submitted by Certified Mail, or hand delivered, to Rebecca Rathe, Office of Land Resources, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.
3. All submittals shall be subject to applicable review fees pursuant to APC&EC Reg. No. 23 § 6(t).
4. 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.
5. If Respondent fails to submit to DEQ any reports or plans, or 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.

6. 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.

7. 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.

8. 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.

9. 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 APC&EC.

10. 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 8th DAY OF April, 2021.

Becky W. Krogh  
BECKY W. KROGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

D.E. Jones, Inc.

BY: Cheryl Jones  
(Signature)

Cheryl Jones  
(Typed or printed name)

TITLE: President

DATE: 3-31-21