

Tire Enforcement/Request for Injunctive Relief: Arkansas Department of Energy and Environment Garland County Circuit Court Complaint Filed



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The Arkansas Department of Energy and Environment Division of Environmental Quality ("DEQ") filed a September 10th Complaint and Requests for Declaratory Relief and for Injunctive Relief ("Complaint") in the Circuit Court of Garland County, Arkansas against an individual and two entities alleging violation of:

- Used Tire Recycling Accountability Act ("Act")
- Arkansas Pollution Control and Ecology Commission Regulation 36 ("Regulation 36")

The Complaint was filed against:

- Michael Wayne Winningham
- BRRB Group of Stores, Inc.
- Sandhu, LLC

The Complaint asks for:

... the remediation of a waste tire site located at 505-511 Mountain Pine Road, Hot Springs, Garland County, Arkansas ("the Site").

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

The Arkansas General Assembly enacted legislation a number of years ago whose purpose is to ensure the appropriate management of waste tires in Arkansas. Amendments were made to this legislation in the 91st Arkansas General Assembly. Both DEQ and the Arkansas Regional Solid Waste Management Districts play roles in this program.

The Complaint describes a tire site that DEQ is stated to have identified through a complaint regarding alleged dumping of tires. The DEQ inspectors are stated to have observed approximately 2,700 waste tires at the Site. Further, they are stated to have determined that the Site was a waste tire site as defined in the Act and Regulation 36.

The Garland County Department of Environmental Services is stated to have issued a citation to the referenced individual for operating a waste site in violation of Ark. Code Ann. § 8-9-403. A subsequent inspection alleges that DEQ inspectors observed approximately 3,500 waste tires at the Site. DEQ is stated

to have provided an inspection report to both the referenced individual and Sandhu, LLC, and requested correction of violations.

The Complaint asks that the Court determine ownership of the Site and the legal remediation obligations of the parties. In addition, it cites provisions from Regulation 36 and seeks that the defendants comply with remediation and closure requirements of the Regulation. Finally, civil penalties are asked to be assessed.

A copy of the Complaint without exhibits can be downloaded [here](#).