



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL
CONTROL**

OFFICE OF THE
SECRETARY

RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

PHONE
(302) 739-9000

**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT
AND SECRETARY'S ORDER**

Pursuant to *7 Del. C. §§ 6005(b)(2) and (b)(3)*

Order No. 2024-WH-0044

Issued To:

**Via Personal Service
Facility Owner/Operator**
Delaware Auto Salvage, Inc.
469 Old Airport Road
New Castle, DE 19720
Attn: Mr. Ronald Bennett

**Via Certified Mail, Return
Receipt
Property Owner**
469 Old Airport Road
415 Old Airport, LLC
4 Star Point, Suite 204
Stamford, CT 06902

**Via Certified Mail, Return
Receipt
Property Owner**
495 Old Airport Road
Necastro, Inc.
495 Old Airport Road
New Castle, DE 19720
Attn: Charles E. Wahl, III

**Via Certified Mail, Return
Receipt
Facility Owner/Operator
Registered Agent**
Joseph W. Benson, P.A.
1701 North Market Street
P.O. Box 248
Wilmington, DE 19802

**Via Certified Mail, Return
Receipt
Property Owner Registered
Agent**
469 Old Airport Road
415 Old Airport, LLC
Corporation Service
Company
215 Little Falls Drive
Wilmington, DE 19808

**Via Certified Mail, Return
Receipt
Property Owner
Registered Agent**
495 Old Airport Road
Edward F. Eaton
8 E 13th Street
Wilmington, DE 19801

This is to notify Delaware Auto Salvage, Inc. ("Delaware Auto Salvage") facility operator and/or owner, 415 Old Airport, LLC, owner of 469 Old Airport Road, New Castle, Delaware 19720 (Parcel No. 1000800009), and Necastro, Inc., owner of 495 Old Airport Road, New Castle, Delaware 19720 (Parcel No. 1000800002) (collectively "Respondents") that the Secretary of the Delaware Department of Natural Resources and Environmental Control ("Department") has found Respondents in violation of 7 *Del. C.* Chapters 60 and 63, 7 DE Admin. Code § 1301, Delaware's *Regulations Governing Solid Waste* ("DRGSW") and DE Admin. Code § 1302, Delaware's *Regulations Governing Hazardous Waste* ("DRGHW"). Accordingly, the Department is issuing this Notice of Administrative Penalty Assessment and Secretary's Order ("Secretary's Order"), pursuant to 7 *Del. C.* § 6005.

BACKGROUND

Delaware Auto Salvage operates an automobile salvage facility on two adjoining properties with one property located at 469 Old Airport Road, New Castle, Delaware 19720, and the other on a portion of the property at 495 Old Airport Road, New Castle, Delaware (the "Facility"). Unwanted vehicles are brought to the Facility and processed where some of the vehicles are ultimately crushed.

On November 15, 2022, the Department received a complaint that a truck hauling a roll-off container was observed dumping solid waste onto the ground of the Facility. On December 8, 2022, the Department received a second complaint concerning a pile of solid waste at the Facility. On December 15, 2022, the Department conducted a compliance inspection of the Facility ("Compliance Inspection").

During the Compliance Inspection, the Department learned that Delaware Auto Salvage accepts commercial waste, roofing waste, and construction and demolition (C&D) waste from Trash Authority, LLC, a Delaware permitted solid waste transporter issued permit number DE-SW-1905. The Department also learned that while operating its the Facility, Delaware Auto Salvage generates scrap metal and scrap tire waste, in addition to generating used oil, lead acid and electric vehicle batteries, antifreeze, and gasoline waste.

On December 16, 2022, as a result of the Compliance Inspection findings, the Department issued Secretary's Order to Cease and Desist Order No. 2022-WH-0026 to Delaware Auto Salvage and to 415 Old Airport, LLC,¹ the owner of the 469 Old Airport Road property.

On January 24, 2023, the Department issued to Delaware Auto Salvage, Notice of Violation (NOV) 23- SW- 02 ("the NOV").² The NOV cited ten separate violations, substantially the same in substance and order as the ten violations cited in the Findings of Fact and Violation section below, and directed Delaware Auto Salvage to correct the violations and submit proof thereof.

In response to the NOV, Delaware Auto Salvage submitted documentation to demonstrate compliance with the violations cited therein: on February 23, 2023, correcting NOV Violations #3, #8, and #9; on March 2, correcting Violation #10; on March 17, correcting Violations #4, and #5; on April 20, correcting Violations #3, #8, and #9; on May 5, correcting Violation #2; and, finally, on May 15, documentation correcting Violation #1.

To correct the two remaining Violations, #6 and #7, which the Department later learned were found on a portion of the adjoining 495 Old Airport Road property, Delaware Auto Salvage was required to submit a site investigatory plan identifying areas impacted by releases of used oil and petroleum which were observed the Compliance Inspection. The investigatory plan, initially submitted to the Department on March 3, 2023, with revisions submitted on March 17 and April 6, was ultimately approved by the Department for implementation on April 6, 2023.

On July 10, 2023, the Department received the sampling results conducted pursuant to the site investigatory plan. The results indicated that petroleum substances were present in the soils sampled. On August 14, 2023, due to the presence of verified petroleum releases Delaware Auto Salvage was instructed to develop and submit a corrective action plan to remediate soils contaminated by the releases of used oil and gasoline on the 495 Old Airport Road property.

¹ At the time of the issuance of Secretary's Order to Cease and Desist Order No. 2022-WH-0026, it was not known to the Department that Delaware Auto Salvage was conducting operations on two separate properties: 469 Old Airport Road and 495 Old Airport Road.

² At the time of the issuance of Notice of Violation (NOV) 23-SW-02, it was not known to the Department that Delaware Auto Salvage was conducting operations on two separate properties: 469 Old Airport Road and 495 Old Airport Road.

Additionally, Delaware Auto Salvage was instructed to develop and submit a plan to investigate any impacts to soils attributable to scrap metal piles created by Delaware Auto Salvage which were observed on a portion of the 495 Old Airport Road property.

The *Corrective Action Workplan* and the *Work Plan to Assess Former Scrap Metal Pile*, submitted to the Department on October 27, 2023, were each approved by the Department on March 25, 2024. Satisfactory completion of these two submitted work plans will result in Respondent's having adequately addressed NOV Violations # 6 and # 7 which remain outstanding.

FINDINGS OF FACT AND VIOLATION INCLUDING
REGULATORY REQUIREMENTS

1. 7 Del. C. §6003(a)(4) states in part:

"No person shall, without first having obtained a permit from the Secretary, undertake any activity:

...

(4) In a way which may cause or contribute to the collection, transportation, storage, processing or disposal of solid wastes..."

And DRGSW Section 4.1.1.1 states:

"No person shall engage in the construction, operation, material alteration, or closure of a solid waste facility, unless exempted from these regulations under subsection 2.3, without first having obtained a permit from the Department."

During the Compliance Inspection, Department representatives observed piles of commercial waste, roofing waste, and construction and demolition (C&D) waste on the ground at the Facility. Department representatives learned the observed wastes were delivered to the property by Trash Authority, LLC, a permitted Delaware Solid Waste Transporter issued permit number DE-SW-1905.

By disposing of solid waste without having first obtained a solid waste management facility permit from the Department, Delaware Auto Salvage was operating a solid waste management facility without a permit. Operating a solid waste management facility without a permit violates 7 Del. C. §6003(a)(4) and DRGSW Section 4.1.1.1.

In response to issued NOV 23-SW-02, on May 15, 2023, Delaware Auto Salvage finished removal of the solid waste that was piled on the ground, thereby correcting Violation #1 to the Department's satisfaction.

2. DRGSW Section 12.2.1 states:

"All scrap tire facilities must either fall into one of three groups, as defined below. A property may have only one scrap tire facility. All other scrap tires facilities are prohibited.

12.2.1.1 Group 1: total volume for scrap tires will be no greater than 450.5 square feet by 10 feet high, with the height being measured from the lowest point on the lowest tire and the square footage measured using the furthestmost tires.

12.2.1.2 Group 2: total volume for scrap tires will be no greater than 901 square feet by 10 feet high, with the height being measured from the lowest point on the lowest tire and the square footage measured using the furthestmost tires.

12.2.1.3 Group 3: scrap tires enclosed by a trailer, not to exceed the use of two (2) trailers, neither having dimensions greater than 53 feet x 8.5 feet x 10 feet."

And DRGSW Section 12.11.1, states in part:

"All other scrap tire facilities not complying with the requirements of Group 1, Group 2, or Group 3 or owner/operators who do not have a current and valid resource recovery facility permit (or other approval issued pursuant to these regulations) that addresses scrap tire management; or persons who are not registered with, and actively participating in, the Scrap Tire Management Program are prohibited. All scrap tires must be removed in accordance with this subsection and the facility shall be closed in a manner that will eliminate the need for further maintenance of the facility..."

At the Compliance Inspection, Delaware Auto Salvage was storing scrap tires in multiple outdoor piles and in semi-trailers at the Facility. Scrap tires in outdoor piles and in semi-trailers constitutes multiple scrap tire facilities. A property may have only one scrap tire facility. Having multiple scrap tire facilities, Delaware Auto Salvage violated DRGSW, Section 12.2.1.

Delaware Auto Salvage's violation of DRGSW Section 12.2.1, subjected Delaware Auto Salvage to the provisions of DRGSW Section 12.11.1. DRGSW Section 12.11.1 mandates that unpermitted scrap tire facilities be properly removed.

In response to issued NOV 23-SW- 02, Delaware Auto Salvage confirmed the removal of the scrap tire piles from the properties on May 5, 2023, therefore correcting the violation to the Department's satisfaction.

3. DRGHW Section 262.11 states in part:

“A person who generates a solid waste, as defined in Section 261.2, must make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to these regulations...”

At the time of the Compliance Inspection, Department representatives found six (6) lead acid batteries with damaged casings and breached cells at the Facility. Additionally, a smashed electric vehicle battery was observed sitting in a puddle of water. Given the extensive damage to the batteries, the batteries can no longer be managed under the alternative management standards of DRGHW Part 266, Subpart G, or as universal waste pursuant to DRGHW Part 273. Since the batteries cannot be managed under the alternative management standards or as universal waste, hazardous waste determinations are consequently required at the point of generation.

In response to issued NOV 23-SW-02, on February 23, 2023, Delaware Auto Salvage submitted documentation to the Department demonstrating compliance with the requirement to make accurate hazardous waste determinations at the point of generation. On April 20, 2023, Delaware Auto Salvage submitted documentation to the Department demonstrating the hazardous waste batteries were shipped offsite, thereby correcting the violations to the Department's satisfaction.

4. DRGHW Section 279.22(c)(1), states:

“Used oil generators are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR Part 112) in addition to the requirements of this subpart. Used oil generators are also subject to the Delaware Regulations Governing Underground Storage Tanks (UST) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this subpart.

(c) Labels.

(1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words ‘Used Oil’.”

At the time of the Compliance Inspection, Department representatives observed five 275-gallon poly totes and two 10-gallon portable used oil drain units accumulating used oil at the Facility. None of the observed containers accumulating used oil were labeled with the words "Used Oil." Delaware Auto Salvage, having failed to label all containers accumulating used oil with the words "Used Oil," violated DRGHW Section 279.22(c)(1).

In response to issued NOV 23-SW- 02, on March 17, 2023, Delaware Auto Salvage submitted documentation to the Department demonstrating the five 275-gallon poly totes of used oil were labeled with the words "Used Oil" and two 10-gallon portable used oil drain units were decommissioned, therefore correcting the violation to the Department's satisfaction.

5. DRGHW Section 279.22(b)(3), states:

"(b) Condition of units. Containers and aboveground tanks used to store used oil at generator facilities must be...
(3) Closed during storage, except when it is necessary to add or remove oil."

At the time of the Compliance Inspection, the two aforementioned 10-gallon portable oil drain units had their funnels removed; however, the drainpipes of the portable units were not plugged or otherwise closed. Delaware Auto Salvage, having failed to close a used oil accumulation container, violated DRGHW Section 279.22(b)(3).

In response to issued NOV 23-SW-02, on March 17, 2023, Delaware Auto Salvage submitted documentation to the Department demonstrating the two 10-gallon portable used oil drain units were removed from service by being drained of used oil and dismantled, correcting the violation to the Department's satisfaction

6. DRGHW Section 279.22(d), states:

"(d) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the requirements of the Delaware Regulations Governing Underground Storage Tanks (UST), and which has occurred after the effective date of Delaware's recycled used oil management program, a generator must perform the following cleanup steps:
(1) Stop the release;
(2) Contain the released used oil;

- (3) Clean up and manage properly the released used oil and other materials; and*
- (4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service."*

At the time of the Compliance Inspection, Department representatives observed oil sheens on puddles and on flowing water in multiple locations near the fluid draining station at the Facility. Oil sheens result when there are releases of used oil into the environment.

At the time the observations were made, there was no spill equipment or other evidence demonstrating that Delaware Auto Salvage had attempted to contain used oil releases or mitigate oil contaminated soils. Failure to address releases of used oil is a violation of DRGHW Section 279.22(d).

In response to issued NOV 23-SW- 02, on March 3 and March 17, 2023, Delaware Auto Salvage submitted workplans, approved by the Department on April 6, to investigate used oil releases in areas near the fluid draining station. The results of the investigation, received by the Department on July 10, indicated the presence of hazardous substances in soils. Delaware Auto Salvage was, therefore, instructed on August 14, to develop and submit a corrective action plan to remediate the contaminated soils in the vicinity of the fluid draining station. The *Corrective Action Workplan*, submitted on October 27, was approved for implementation by the Department on March 25, 2024.

7. DRGHW Section 122.1(c), which states:

“(c) Scope of the hazardous waste permit requirement. DNREC requires a permit for the ‘treatment’, ‘storage’, and ‘disposal’ of any ‘hazardous waste’ as identified or listed in Part 261. The terms ‘treatment’, ‘storage’, ‘disposal’, and ‘hazardous waste’ are defined in Section 122.2. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit. Owners or operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to Section 265.115) after January 26, 1983, must have post-closure permits, unless they demonstrate closure by removal or decontamination as provided under Section 122.1(c)(5) and (6), or obtain an enforceable document in lieu of a post-closure permit, as required under (c)(7) of this section. If a post-closure permit is required, the permit must address applicable Part 264 groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements of these regulations. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a post-closure permit under this section.”

At the time of the Compliance Inspection, in the vehicle crushing area on the Facility, Department representatives observed numerous empty, discarded vehicle fuel tanks on the ground. Department representatives also observed an iridescent sheen on pooled and flowing water in the vicinity of the vehicle fuel tanks, as well as a strong petroleum fuel odor. These observations support a finding that Delaware Auto Salvage released gasoline onto the ground.

Releasing gasoline, a hazardous waste, onto the ground is disposal. Prior to operating a hazardous waste disposal facility, a permit must be obtained. Delaware Auto Salvage had not obtained the required permit. Failure to obtain a permit for the disposal of hazardous waste is a violation of DRGHW Section 122.1(c).

In response to issued NOV 23-SW- 02, on March 3 and March 17, 2023, Delaware Auto Salvage submitted workplans, approved by the Department on April 6, to investigate petroleum releases in the discarded vehicle fuel tank area. The results of the investigation, received by the Department on July 10, indicated the presence of hazardous substances in soils. Delaware Auto Salvage was therefore instructed on August 14, to develop and submit a corrective action plan to remediate the contaminated soils in the vicinity of the discarded vehicle fuel tank area. The *Corrective Action Workplan*, submitted on October 27, 2023, was approved for implementation by the Department on March 25, 2024.

8. DRGHW Section 273.14(a), which states:

“A small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste as specified below: (a) Universal waste batteries (i.e., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases: ‘Universal Waste-Battery(ies),’ or ‘Waste Battery(ies),’ or ‘Used Battery(ies);’”

At the time of the Compliance Inspection, Department representatives observed at the Facility, a pile of intact electric vehicle batteries. While the lithium-ion based electric vehicle batteries were being managed as universal waste, none of the observed electric vehicle batteries were labeled with the words “Universal Waste Battery(ies),” “Waste Battery(ies),” or “Used Battery(ies).” Delaware Auto Salvage’s failure to properly label each universal waste battery or each container accumulating universal waste batteries violated DRGHW Section 273.14(a).

In response to NOV 23-SW- 02, on February 23, 2023, Delaware Auto Salvage submitted documentation to the Department demonstrating compliance with the requirement to appropriately label universal waste batteries. Additionally, on April 20, Delaware Auto Salvage submitted documentation to the Department demonstrating the universal waste batteries had been shipped offsite on April 10, 2023. This violation has been corrected to the Department’s satisfaction.

9. DRGHW Section 273.13(e)(1), which states:

*“(e) Aerosol cans. A small quantity handler of universal waste must manage universal waste aerosol cans in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
(1) Universal waste aerosol cans must be accumulated in a container that is structurally sound, compatible with the contents of the aerosol cans, lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and is protected from sources of heat.”*

At the time of the Compliance Inspection, Department representatives observed intact aerosol cans on the ground and mixed with other solid waste at the Facility. Discarded aerosol cans are subject to universal waste regulations, which require the aerosol cans to be accumulated in a container segregated from other solid waste. Delaware Auto Salvage, having failed to accumulate discarded aerosol cans in a container, violated DRGHW Section 273.13(e)(1).

In response to issued NOV 23-SW- 02, on February 23, 2023, Delaware Auto Salvage submitted documentation to the Department, demonstrating compliance with the requirement to place universal waste aerosol cans into a container. Additionally, on April 20, 2023, Delaware Auto Salvage submitted documentation demonstrating that the universal waste aerosol cans had been shipped offsite on April 10, 2023. This violation has been corrected to the Department's satisfaction.

10. DRGHW Section 273.16, states:

*“Employee training.
A small quantity handler of universal waste must inform all employees who handle or have responsibility for managing universal waste. The information must describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.”*

At the time of the Compliance Inspection, Delaware Auto Salvage had not provided training to employees regarding the regulatory requirements for managing universal waste batteries and universal waste aerosol cans. Failure to train employees on the proper management of universal waste is a violation of DRGHW Section 273.16.

In response to issued NOV 23-SW- 02, on March 2, 2023, Delaware Auto Salvage submitted documentation to the Department demonstrating compliance with the requirement to train employees who manage universal waste. This violation has been corrected to the Department's satisfaction.

CONCLUSIONS

Based on the foregoing, the Department has concluded that Respondents violated the above-cited statutory and regulatory provisions and continue to be in violation of the statutory and regulatory requirements of Violation numbers 6 and 7 as cited above.

SECRETARY'S ORDER

As Respondents have failed to comply with all cited requirements of DRGHW, DRGSW, and 7 *Del. C.* Chapters 60 and 63, the Department requires that Respondents shall demonstrate compliance with the applicable laws to resolve the outstanding violations. Therefore, in consideration of the foregoing findings, notice is hereby given, pursuant to 7 *Del. C.* § 6005(b)(2), that Respondents shall achieve compliance by undertaking the following actions.

In a manner in full compliance with all applicable laws and regulatory requirements, Respondents shall, within 30 days of receipt of this Order, ensure the implementation of the *Corrective Action Workplan* and the *Work Plan to Assess Former Scrap Metal Pile* as approved by the Department on March 25, 2024.

ASSESSMENT OF PENALTY

Pursuant to 7 *Del. C.* § 6005(b)(3), the Secretary may impose an administrative penalty of not more than \$10,000.00 for each day of violation detailed in this Order. This Order is written notice to Respondents, that, based upon its findings, the Department is assessing Respondents an administrative penalty for the violations identified in this Assessment and Order. In assessing the administrative penalty, 7 *Del. C.* § 6005(b)(3) instructs the Secretary to consider the following factors: (1) the nature, circumstances, extent, and gravity of the violation, or violations; (2) the ability of the violator to pay; (3) any prior history of such violations; (4) the degree of culpability; (5) the economic benefit or savings (if any) resulting from each violation; and (6) such other matters as justice may require. A brief discussion of these factors is set forth below.

1. The Nature, Circumstances, Extent and Gravity of the Violation, or Violations:

The nature, circumstances, extent, and gravity of the violation is significant. This Order identifies and describes statutory and regulatory violations. Failing to ensure compliance with the statutory and regulatory requirements for the management of solid and hazardous waste, including failure to secure a permit to receive, collect and store solid waste, are significant deviations from the statutory and regulatory requirements cited herein.

2. Respondents' Ability to Pay:

The record contains no information that Respondents lack the ability to pay the administrative penalty assessed.

3. Prior History of Violations:

Respondents have not previously incurred solid and hazardous waste regulatory violations in the state of Delaware, and thus this was not a factor in the administrative penalty assessment.

4. Degree of Culpability:

The degree of culpability is significant. Had Respondents employed reasonable oversight measures as DRGSW and DRGHW require, the violations would not have occurred.

5. Economic Benefit or Savings Resulting from the Violation(s):

With respect to the economic benefit, the record contains no information that Respondents incurred any meaningful economic benefit from the violations, and thus this was not a factor in the administrative penalty assessment.

6. Such Other Matters as Justice May Require:

Lastly, considering such other matters as justice may require, the Secretary has determined that the penalty assessed is proportional to the violations cited herein and has been calculated to deter Respondents, and those similarly situated, from engaging in future violations.

Pursuant to 7 *Del. C.* § 6005(b)(3), this is written notice to Respondents that on the basis of the above findings and factors, an administrative penalty of \$10,000.00 is assessed for the violations identified in this Order.

1. Respondents shall submit one check to the Department in the amount of \$10,000.00 to pay the administrative penalty within 30 days from the receipt of this Assessment and Order. The check shall be made payable to the "State of Delaware" and shall be directed to: Leslie Reese, 89 Kings Highway SW, Dover, Delaware 19901.

PUBLIC HEARING AND APPEAL RIGHTS

This Assessment and Order affects Respondents' legal rights and is effective and final upon receipt by Respondents. Pursuant to Section 6008 of Title 7 of the Delaware Code, any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental Appeals Board within **20 days** of the receipt of the Assessment and Order. In the alternative, Respondents may, pursuant to *7 Del. C. § 6005(b)(3)*, request a public hearing on the Assessment and Order within **30 days** of receipt of the Assessment and Order. A public hearing pursuant to *7 Del. C. § 6005(b)(3)* would be conducted pursuant to *7 Del. C. § 6006*, and the Secretary's order following the hearing would be subject to appeal, pursuant to *7 Del. C. § 6008*, by any person substantially affected.

Respondents are further advised that the above assessed administrative penalty shall be due and owing within 30 days of Respondents' receipt of this Assessment and Order. In the event of nonpayment of the administrative penalty assessed above, and after Respondents have exhausted all legal appeals, if any, a civil action may be brought by the Secretary in Superior Court for collection of the administrative penalty, including interest, attorneys' fees and costs, and the validity, amount and appropriateness of such administrative penalty and/or costs shall **not** be subject to review pursuant to *7 Del. C. §§ 6005(b)(3) and (c)*.

To request a public hearing pursuant to *7 Del. C. § 6005(b)(3)*, please submit your request, in writing, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

To submit an appeal to the Environmental Appeals Board pursuant to 7 *Del. C.* § 6008, you must file your written statement of appeal and submit a check, made payable to: "Environmental Appeals Board," for the \$50.00 filing fee, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
Attn: Assistant to the Environmental Appeals Board
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

For additional information on filing an appeal with the Environmental Appeals Board and what information you must include in your written statement of appeal, please refer to the Environmental Appeals Board Regulations, codified at 7 DE Admin. Code § 105.

The Department, to the extent necessary, reserves the right to take additional enforcement actions regarding these and other violations by Respondents, including but not limited to one or more of the following: an action under 7 *Del. C.* § 6005(b)(1) seeking penalties for past violations, an action under 7 *Del. C.* § 6005(b)(2) seeking penalties for continuing violations, an action in the Court of Chancery pursuant to 7 *Del. C.* § 6005(b)(2) seeking a temporary restraining order or an injunction, and the imposition of civil penalties and recovery of the Department's costs and attorney's fees pursuant to 7 *Del. C.* §§ 6005(b)(3) & (c)(1). Nothing in this document shall be deemed to estop, or in any way preclude any additional enforcement action for these or any other violations, including administrative and civil penalties for each day of violation, or an action for the recovery of Department costs expended in abating these violations.

SECRETARY'S ORDER FOR COST RECOVERY

Pursuant to 7 Del. C. § 6005(c), Respondents are liable for all expenses incurred by the Department in abating the violations detailed in this Secretary's Order. "Such expenses shall include, but not be limited to, the costs of investigation, legal fees and assistance, public hearings, materials, equipment, human resources, contractual assistance and appropriate salary and overtime pay for all state employees involved in the effort notwithstanding merit system laws, regulations or rules to the contrary." 7 Del. C. § 6005(c)(1).

The Department is not seeking costs from Respondents in this Order. Please be advised, however, this is not a waiver of the Department's right to cost recover for past costs. Further, additional costs, which you may be liable, may accrue through the exhaustion of Respondents appeal rights. The Department reserves the right to issue a detailed billing statement of all costs incurred and seek recovery of that amount.

PAYMENT

If Respondents do not wish to exercise their legal rights to a hearing or appeal, Respondents may pay the administrative penalty of \$10,000.00 prior to the end of the appeal period in the manner described in the attached "**Waiver of Statutory Right to A Hearing.**" **By doing so, Respondents waive the right to a hearing and the opportunity to appeal or contest this Secretary's Order.**

If you have any questions, please contact, or have your attorney contact Travis Groski, Esq., Deputy Attorney General, at (302) 395-2600.

10/22/2024

Date



For Shawn M. Garvin, Secretary

cc: Travis Groski, Deputy Attorney General
Timothy Ratsep, Division Director

WAIVER OF STATUTORY RIGHT TO A HEARING

Delaware Auto Salvage, Inc. hereby waives its right to a public hearing and its opportunity to appeal or contest this Assessment and Order, and agrees to the following:

1. **Delaware Auto Salvage, Inc.; 415 Old Airport, LLC; and NeCastro, Inc.** will pay the administrative penalty in the amount of \$10,000.00 by sending a check payable to the "State of Delaware" within 30 days of receipt of this Assessment and Order. The check shall be directed to Leslie Reese, 89 Kings Highway SW, Dover, Delaware 19901.

Delaware Auto Salvage, Inc.

Date: _____

By: _____
(Signature)

Title: _____

Name: _____
(Print)

415 Old Airport, LLC

Date: _____

By: _____
(Signature)

Title: _____

Name: _____
(Print)

NeCastro, Inc.

Date: _____

By: _____
(Signature)

Title: _____

Name: _____
(Print)