



State of Utah

SPENCER J. COX
Governor

DEIDRE HENDERSON
Lieutenant Governor

Department of
Environmental Quality

Kimberly D. Shelley
Executive Director

DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL

Douglas J. Hansen
Director

January 4, 2024

Sharna Welty, Vice President
Tri State Oil Reclaimers, Inc.
1770 Otto Road
Cheyenne, WY 82007

RE: **PROPOSED STIPULATION AND CONSENT ORDER No. 2111118 for Resolution of
NOTICE OF VIOLATION AND COMPLIANCE ORDER No. 2111115**
Used Oil Processor UOP-0195 – West Haven Facility
UTR000015651

Dear Ms. Welty:

Enclosed please find **Proposed** STIPULATION AND CONSENT ORDER (SCO) No. 2111118 and penalty narrative that will be available for public review and comment. The public comment period is scheduled to run from January 8, 2024, to February 7, 2024. This proposed SCO will be presented to the Waste Management and Radiation Control Board (Board) as an informational item at the January 11, 2024 Board Meeting. After consideration of public comments, this SCO may be revised for your consideration, or if no public comments are received, will be presented at the February 8, 2024 Board Meeting for final action. If approved by the Board, the final SCO will be sent to Tri State Oil Reclaimers, Inc. for signature.

The time frames in the final SCO will become effective upon my signature and dating as the Director of the Division of Waste Management and Radiation Control.

If you have any questions, please call Leonardo Calcagno at 385-499-0872 or Elizabeth Burns, Assistant Attorney General at 385-441-4789.

Sincerely,

Douglas J. Hansen, Director
Division of Waste Management and Radiation Control

(Over)

DJH/LC/jk

Enclosures: Proposed Stipulation and Consent Order No. 2111118 (DSHW-2022-027436)
Narrative Explanation to Support Penalty Amount (DSHW-2022-027423)

c: Charles Welty, President, Tri State Oil Reclaimers, Inc. (Email)
Sharna Welty, Vice President, Tri State Oil Reclaimers, Inc. (Email and Hard Copy)
Ashley A. Peck, Holland and Hart, Counsel for Tri State Oil Reclaimers, Inc. (Email)
Elizabeth Burns, Assistant Attorney General, Utah Attorney General's Office (Email)

PROPOSED – SETTLEMENT NEGOTIATIONS

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In the Matter of:	:	
	:	
Tri State Oil Reclaimers, Inc.	:	STIPULATION AND CONSENT ORDER
Notice of Violation and Compliance Order	:	No. 2111118
(NOV/CO) No. 2111115		
UOP-0195		
UTR000015651		

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This **STIPULATION AND CONSENT ORDER** (CONSENT ORDER) is issued by the Director of the Utah Division of Waste Management and Radiation Control pursuant to the Utah Administrative Code R315-15 (the Rules), Utah Used Oil Management Act (the Act), Utah Code § 19-6-701, *et seq.*, and the Utah Solid and Hazardous Waste Act, Utah Code § 19-6-101, *et seq.*

JURISDICTION

1. The Director has jurisdiction over the subject matter of this CONSENT ORDER pursuant to Utah Code §§ 19-6-705(2)(c), 19-6-721, 19-6-107, and 19-6-112 and jurisdiction over Tri State Oil Reclaimers, Inc. Tri State Oil Reclaimers, Inc. consents to and will not challenge the issuance of this CONSENT ORDER or the Director’s jurisdiction to enter and enforce this CONSENT ORDER. Tri State Oil Reclaimers, Inc. and the Director are the parties to this agreement.
2. The Utah Waste Management and Radiation Control Board has authority to review and approve or disapprove this CONSENT ORDER pursuant to Utah Code § 19-6-104(1)(e).

FINDINGS

3. Tri State Oil Reclaimers, Inc. (TSOR) is incorporated in the State of Wyoming and registered to conduct business in the State of Utah (Entity 8870599-0143). TSOR is the owner and operator of a used oil processor facility located in Weber County, at 2400 South 1900 West, West Haven, Utah (West Haven Facility).
4. TSOR operates as a used oil processor in the State of Utah under the provisions of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and a State-issued used oil processor permit (Permit UOP-0195).
5. TSOR is a “person” as defined in Utah Code § 19-1-103(4) and is subject to all applicable provisions of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and Permit UOP-0195 issued to TSOR as operator of a used oil processor facility in Utah.
6. Based on findings determined during inspections of the West Haven Facility on June 24, 2021, and June 25, 2021, and additional review of records, the Director issued Notice of Violation and Compliance Order (NOV/CO) No. 2111115 on May 20, 2022, which cited violations of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and Permit UOP-0195.
7. On July 15, 2022, TSOR filed a written response to the NOV/CO.

PROPOSED – SETTLEMENT NEGOTIATIONS

8. In accordance with the Civil Penalty Policy, Utah Admin. Code R315-102, which considers such factors as the gravity of the violation, the extent of deviation from the rules, the potential for harm to human health and the environment, good faith efforts to comply, and other factors, the Director calculated and proposed a penalty based on the violations alleged in the NOV/CO No. 2111115.

STIPULATION AND CONSENT ORDER

9. This CONSENT ORDER has been negotiated in good faith and the parties now wish to fully resolve NOV/CO No. 2111115 without further administrative or judicial proceedings.
10. In full settlement of the violations alleged in NOV/CO No. 2111115, TSOR shall:
- 10.1. Pay a penalty of \$48,626.00 (forty-eight thousand, six-hundred and twenty-six dollars).
 - 10.2. A cash payment of \$24,313.00 (twenty-four thousand, three-hundred and thirteen-dollars) shall be made within thirty days of the effective date of this CONSENT ORDER. Payment shall be made to the Utah Department of Environmental Quality, c/o Douglas J. Hansen, Director, Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah 84114-4880.
 - 10.2.1. The remaining penalty amount, \$24,313.00 (twenty-four thousand, three-hundred and thirteen-dollars), shall be deferred and waived by the Director if TSOR complies with 10.2, the Orders in 10.3, and remains in compliance with all of the provisions of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and the State-issued West Haven Facility used oil processor permit (Permit UOP 0195), for one year from the effective date of this CONSENT ORDER. For the year, violations that are minor in potential for harm and minor in extent of deviation shall not trigger payment of the deferred penalty amount. These minor violations are still subject to the regular enforcement process, including return to compliance and appropriate penalties.
 - 10.2.2. If the Director determines that TSOR has failed to comply with the requirements of 10.2.1, the Director will provide written notification to TSOR that the deferred payment of \$24,313.00 (twenty-four thousand, three-hundred and thirteen-dollars) has not been waived due to TSOR's failure to comply with the requirements of the CONSENT ORDER.
 - 10.2.3. TSOR shall make a cash payment of \$24,313.00 (twenty-four thousand, three-hundred and thirteen dollars), within 60 days of the date that the Director notifies TSOR of their failure to comply with this CONSENT ORDER. Payment shall be made to the Utah Department of Environmental Quality, c/o Douglas J. Hansen, Director, Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah 84114-4880.
 - 10.3. The Director hereby Orders TSOR West Haven Facility to:
 - 10.3.1. Submit the Used Oil Processor Annual Report for its West Haven Facility for operating year 2022, and an updated Used Oil Processor Annual Report for its West Haven Facility for operating years 2021 and 2020, within sixty days of the effective date of this CONSENT ORDER. To the extent that TSOR records are not available, the Reports may include written explanations of why the Reports are incomplete or otherwise deficient.

PROPOSED – SETTLEMENT NEGOTIATIONS

- 10.3.2. On or before the 15th day of each month, until the one-year anniversary of the effective date of this CONSENT ORDER, a corporate officer of Tri State Oil Reclaimers, Inc. shall submit a statement to the Director certifying that for the preceding month:
- 10.3.2.1. TSOR has recorded and maintained a used oil tank storage log sheet specified in Attachment 9 of the West Haven Permit, for each of the tanks listed in Table II.C, as required by Permit Conditions I.F.3.a and b. Tank log sheets shall document the operator conducting the operation (via signature), date and time of the operation, the volume of used oil placed into or taken out of the tank (including inter-tank transfers), the destination of the used oil shipped from the facility, and the halogen concentration of used oil received by the facility. In addition, tank records shall document tank sampling events, which includes the date sampled, samplers' initials, facility sample identification, laboratory sample identification number, and whether the used oil sample met the specification requirements of the Rules.
 - 10.3.2.2. TSOR has: (1) inspected each container and tank containing used oil, the secondary containment system, and the facilities emergency equipment in accordance with Attachment 2 of the Permit, at least weekly and (2) for each inspection, recorded in the West Haven Facility operating record the inspector's name; date of the inspection; the condition of each tank, container, secondary containment system, and emergency equipment; and subsequent corrective actions taken to resolve any issues identified during the inspections, as required by Permit Conditions I.D.3 and I.D.4.
 - 10.3.2.3. TSOR has: (1) removed any accumulations of water (including stormwater), used oil, or other liquids in the secondary containment system within 24 hours of discovery; and (2) maintained records documenting the proper characterization, handling, and disposal of used oil related wastes (e.g., oily rags, absorbent, and wastewater), as required by UAC R315-15-5.5(d)(4) and (5) and Permit Conditions I.F.6.a, I.I.1 and I.I.2.
 - 10.3.2.4. Each TSOR employee conducting used oil operations has been adequately trained, as required by Permit Conditions II.F.1 through II.F.5.
 - 10.3.2.5. A description and corrective action of any non-compliance identified by TSOR, with the recordkeeping, labeling, and training requirements described above in ¶¶ 10.3.2.1 through 10.3.2.4. The description should include the date(s) and type(s) of non-compliance, why the non-compliance occurred, and the immediate actions taken by TSOR to return to compliance with the Rules and Permit.

PROPOSED – SETTLEMENT NEGOTIATIONS

- 10.3.3. On or before the 15th day of May 2024, August 2024, November 2024, and February 2025, for the previous three months, TSOR shall submit to the Director, complete copies of: (1) used oil storage tank records for required Permit Conditions I.F.3.a and b; (2) weekly facility inspection records required by Permit Conditions I.D.3 and I.D.4; (3) records documenting that used oil related wastes (e.g., oily rags, absorbent, oily wastewater, and oily stormwater) have been properly characterized to determine if the wastes are hazardous or non-hazardous and have been sent to a facility permitted to accept the type of oily waste generated in accordance with Permit Conditions I.F.6.a, I.I.1, and I.I.2 and the Rules; and (4) used oil training records for employees, initial and annual refresher training, or any additional training that is required if the Permit is modified or the facility's used oil handling procedures have been updated as required by Permit Conditions II.F.1 through II.F.5.
- 10.3.4. For each submittal required by ¶¶ 10.3.1, 10.3.2, and 10.3.3, above, TSOR shall include the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision according to a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

EFFECT OF CONSENT ORDER

For the purposes of this CONSENT ORDER, the parties agree and stipulate to the above stated facts. The obligations in this CONSENT ORDER apply to and are binding upon the Division of Waste Management and Radiation Control and upon TSOR and any of TSOR's successors, assigns, or other entities or persons otherwise bound by law.

The stipulations contained herein are for the purposes of settlement and shall not be considered admissions by any party and shall not be used by any person related or unrelated to this CONSENT ORDER for purposes other than determining the basis of this CONSENT ORDER. Nothing contained herein shall be deemed to constitute a waiver by the State of Utah of its right to initiate enforcement action, including civil penalties, against TSOR in the event of future non-compliance with this CONSENT ORDER, with the Act, the Utah Solid and Hazardous Waste Act, the Rules, or with Permit UOP-0195; nor shall the State of Utah be precluded in any way from taking appropriate action should such a situation arise again at the TSOR facility. However, entry into this CONSENT ORDER shall relieve TSOR of all liability for violations which did arise or could have arisen with respect to the allegations contained in NOV/CO No. 2111115.

PROPOSED – SETTLEMENT NEGOTIATIONS

EFFECTIVE DATE

This CONSENT ORDER shall become effective upon the date of execution by the Director.

PUBLIC PARTICIPATION

This CONSENT ORDER shall be subject to public notice and comment for a period of at least 30 days (“Comment Period”) in accordance with Utah Admin. Code R315-124-34. The Director reserves the right to withdraw or withhold his consent if any comment received during the Comment Period discloses facts for consideration indicating the CONSENT ORDER is inappropriate, improper, or inadequate.

SIGNATORY

The undersigned representative of Tri State Oil Reclaimers, Inc. certifies she is authorized to enter into this CONSENT ORDER and to execute and legally bind Tri State Oil Reclaimers, Inc.

Pursuant to the Utah Used Oil Management Act (the Act), Utah Code § 19-6-701, *et seq.*, in the *Matter of Tri State Oil Reclaimers, Inc., Notice of Violation and Compliance Order No. 2111115*, the parties hereto mutually agree and consent to STIPULATION AND CONSENT ORDER No. 2111118 as evidenced below:

TRI STATE OIL RECLAIMERS, INC.

THE STATE OF UTAH
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL

Sharna Welty, Vice President

Douglas J. Hansen, Director

Date: _____

Date: _____



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 1 (Finding 7)

Violation Description: *Permit Condition I.F.1 by failing to have used oil records readily accessible for review by representatives of the Director.*

1. Gravity Based Penalty: \$2,600.00

(a) Potential for Harm – Moderate

Failure to maintain accurate used oil storage tank logs and used oil processor tank records are fundamental to the continued integrity of the Used Oil Program. These documents are critical as they are used to evaluate Tri State Oil Reclaimers, Inc. (TSOR)'s compliance with their Used Oil Processor Permit and Utah Administrative Code R315-15 (Rules.) Per the penalty policy, the violation fits the Moderate for the potential for harm because the violation has, or may have, a medium adverse effect on statutory or regulatory purposes or procedures for implementing the used oil program.

(b) Extent of Deviation – Moderate

The extent of the deviation is significant but some of the used oil records were accessible for review by representatives of the Director.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

Economic benefit was not calculated due to difficulty in assessing TSOR's cost savings in failing to have records accessible for review by representatives of the Director.

4. Recalculation of Penalty based on New Information: NA

Violation 1: Penalty Total: \$2,600.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 2 (Finding 8)

Violation Description: *Permit Conditions I.F.3.a and b, by failing to record the required information in tank logs for several sampling events, multiple loads of used oil received or shipped from the facility, and transfer of used oil between facility tanks.*

1. Gravity Based Penalty: \$2,600.00

(a) Potential for Harm – Moderate

Failing to keep all required information in the tank logs resulted in potential risk of exposure to humans and the environment. Employees could not discern if the used oil in a tank had been sampled or tested prior to marketing the oil to on-specification used oil burners in Utah and surrounding states. As asphalt plants do not have the safety controls required to burn off-specification used oil, their employees could have been harmed by breathing exhaust from the asphalt plants and subsequently surrounding soils and surface waters could also have been contaminated. Failure to maintain accurate used oil storage tank logs and used oil processor tank records are fundamental to the continued integrity of the Used Oil Program. These documents are critical as they are used to evaluate TSOR's compliance with their Used Oil Processor Permit, and Utah Administrative Code R315-15 (Rules.)

(b) Extent of Deviation – Moderate

The extent of the deviation is significant but some of the recording requirements were met.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$390.00

TSOR has failed to promptly correct this violation or provide verification that the facility has returned to compliance as ordered in the NOV/CO, which subsequently has caused the Director to make additional efforts to verify that TSOR returned to compliance.

(c) Willfulness/Negligence: 15% Increase @ \$390.00

TSOR should have known that the failure to record all shipments accepted and shipped from the facility could result in the marketing of untested used oil to on-specification used oil burners and managers should have periodically reviewed the tank log records to assure that the records complied with the requirements of the Permit and the Rules.

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$600.00

The Division had difficulty in accurately quantifying the economic benefit to TSOR due to the fact that some shipments of used oil were never recorded or only some of the required information was recorded for shipments in the tank logs. However, TSOR did have an economic benefit as it takes approximately 15 minutes for a driver to fill out the tank log. A conservative estimate for the labor costs saved by TSOR for six employees to complete the tank logs from October 20, 2020, to June 24, 2021, is \$600.00.

4. Recalculation of Penalty based on New Information: NA

Violation 2: Penalty Total: \$3,980.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 3 (Finding 9)

Violation Description: *Permit Conditions I.D.3 and I.D.4 by failing to conduct and document weekly inspections of the facility's safety equipment, used oil storage containers and tanks, and the secondary containment system.*

1. Gravity Based Penalty: \$3,800.00

(a) Potential for Harm – Moderate

There was a moderate risk of exposure to human health and the environment and recordkeeping is a critical component of the Used Oil Program to evaluate a facilities regulatory compliance.

(b) Extent of Deviation – Major

TSOR failed to document the weekly inspections of the facility since the TSOR West Haven Facility was permitted on October 20, 2020, through June 24, 2021.

(c) Multiple Events: Increase @ \$5,920.00 for 32 (33-1) events (\$185.00 per event)

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$1,458.00

TSOR has failed to promptly correct this violation or provide verification that the facility has returned to compliance, which subsequently has caused the Director to make additional efforts to verify that TSOR returned to compliance.

(b) Willfulness/Negligence: 15% Increase @ \$1,458.00

On June 24, 2021, TSOR's Utah Manager stated to Division inspectors that he would instruct employees to conduct and document the weekly inspections as required by the Permit. On June 9, 2022, in a meeting with TSOR's Utah Manager, a Division inspector asked if TSOR employees were conducting weekly inspection of the West Haven Facility as required by the Permit. TSOR's Manager stated that employees had conducted and documented weekly inspection of the facility most of the time but that they sometimes "skipped a week."

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$160.00

The Division estimated that TSOR saved at least \$160.00 in employee labor cost saving by failing to record 32 weekly inspections from October 20, 2020, through June 24, 2021 (.25 hrs./inspection @ \$5.00 x 32 events).

4. Recalculation of Penalty based on New Information: NA

Violation 3: Penalty Total: \$12,796.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 4 (Finding 10)

Violation Description: *Utah Admin. Code (UAC) R315-15-5.5(b) by failing to maintain used oil storage tanks and their associated pipes and valves in good condition.*

1. Gravity Based Penalty: \$200.00

(a) Potential for Harm – Minor

There was a minor risk of exposure to human health and the environment. The West Haven Facility tanks have a secondary containment system to contain released of used oil and the Tank Farm is enclosed by a fence and the access gate is locked when facility personnel are not present.

(b) Extent of Deviation – Minor

At the time of inspection, most tanks and auxiliary equipment were in good condition.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 10% Increase @ \$20.00

TSOR failed to provide documentation, as ordered in the NOV/CO, in TSOR’s response to the NOV/CO, that storage tanks and associated piping and tank valves have been inspected and repaired which subsequently caused the Director to make additional efforts to verify that TSOR returned to compliance.

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$335.00

The Division estimated that parts labor costs for inspecting tanks and repairing valves to be at least \$335.00.

4. Recalculation of Penalty based on New Information: NA

Violation 4: Penalty Total: \$555.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 211118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 211115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 5 (Finding 11)

Violation Description: *Permit Condition I.F.6.a by failing to maintain records of wastewater (includes stormwater) received at or generated at the facility and the proper disposal of this wastewater.*

1. Gravity Based Penalty: \$3,200.00

(a) Potential for Harm – Moderate

There was a moderate risk of exposure to human health and the environment as TSOR failed to determine if the oily wastewater generated at the facility was a hazardous or a non-hazardous waste and document that the proper disposal of this waste.

(b) Extent of Deviation – Major

TSOR does not have written records documenting wastewater/stormwater received at or generated at the facility or records documenting proper disposal of wastewater/stormwater since the facility was permitted in October of 2020.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$480.00

TSOR has failed to promptly correct this violation or provide verification that the facility has returned to compliance, which subsequently has caused the Director to make additional efforts to verify that TSOR returned to compliance.

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

Economic benefit was not calculated due to difficulty in assessing TSOR's cost savings as it is unknown how much wastewater or stormwater was generated and disposed of by the facility.

4. Recalculation of Penalty based on New Information: NA

Violation 5: Penalty Total: \$3,680.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 211118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 211115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 6 (Finding 12)

Violation Description: *Permit Condition I.E.1 by failing to immediately clean up releases of used oil at the facility.*

1. Gravity Based Penalty: \$2,000.00

(a) Potential for Harm – Moderate

There was a moderate risk of exposure to human health and the environment.

(b) Extent of Deviation – Moderate

Significantly deviates from the regulatory requirements; however, some releases of used oil had been remediated by facility personnel.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: 5% Increase @ \$100.00

TSOR is aware that releases of used oil are required to be remediated immediately.

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$1,600.00

TSOR had an economic benefit by not immediately cleaning up releases of used oil. The estimated cost to hire a contractor to cleanup released oil in the secondary containment system is \$1,600.00.

4. Recalculation of Penalty based on New Information: NA

Violation 6: Penalty Total: \$3,700.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 7 (Finding 13)

Violation Description: *Permit Conditions II.F. 1 through II.F.5 by failing to train employees conducting used oil operations at the West Haven Facility as required by the Permit.*

1. Gravity Based Penalty: \$3,800.00

(a) Potential for Harm – Moderate

Failure to train employees resulted in multiple non-compliances with the Permit and which resulted in a moderate potential for harm to human health and the environment and also has an adverse effect on implementing the Used Oil Program.

(b) Extent of Deviation – Major

TSOR failed to provide used oil training to at least six employees conducting used oil operations at the West Haven Facility in 2020.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$980.00

The Division estimated that TSOR saved employee labor costs of at least \$980.00 to conduct a used oil training class attended by eight employees who conducted used oil operations at the West Haven Facility.

4. Recalculation of Penalty based on New Information: NA

Violation 7: Penalty Total: \$4,780.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 8 (Finding 14)

Violation Description: *Permit Condition I.I.1 by failing to document and maintain records showing proper characterization, handling, and disposal of wastes generated at the facility.*

1. Gravity Based Penalty: \$3,200.00

(a) Potential for Harm – Moderate

TSOR failed to determine or maintain records showing proper characterization, handling, and disposal of wastes generated at the facility which has the potential for harm to human health and the environment if the waste was disposed of at a facility not permitted to handle the oily waste.

(b) Extent of Deviation – Major

TSOR does not have any written records documenting proper disposal of oily wastes since the facility was permitted in October of 2020.

(c) Multiple Events: Number of events of waste disposal could not be determined.

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$480.00

TSOR has failed to promptly correct this violation or provide verification that the facility has returned to compliance, which subsequently has caused the Director to make additional efforts to verify that TSOR returned to compliance.

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

Economic benefit was not calculated due to difficulty in assessing TSOR's cost savings as it is unknown how much oily waste or stormwater was generated or disposed of by the facility.

4. Recalculation of Penalty based on New Information: NA

Violation 8: Penalty Total: \$3,680.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 9 (Finding 15)

Violation Description: *Permit Condition I.N.1 and UAC R315-15-13.5(d) require used oil processor facilities to submit a Used Oil Processor Annual Report to the Director of its activities during the 2020 calendar year.*

1. Gravity Based Penalty: \$3,300.00

(a) Potential for Harm – Moderate

There was a moderate risk of exposure to human health and the environment by failing to submit information required by Permit Condition I.N.1 and UAC R315-15-13.5(d).

(b) Extent of Deviation – Major

TSOR failed to submit a Used Oil Processor Annual Report to the Director of its activities during the 2020 calendar year.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 20% Increase @ \$660.00

TSOR has failed to submit a 2020 Used Oil Processor Annual Report as ordered in the NOV/CO, which subsequently has caused the Director to make additional efforts to have TSOR submit the 2020 Annual Report.

(b) Willfulness/Negligence: 15% Increase @ \$495.00

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

Economic benefit was not calculated due to difficulty in assessing TSOR's cost savings by failing to submit a 2020 Used Oil Processor Annual Report for its West Haven Facility.

4. Recalculation of Penalty based on New Information: NA

Violation 9: Penalty Total: \$4,455.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111118**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0195 – West Haven Facility
Notice of Violation No. 2111115 – Draft Total Proposed Penalty Amount: \$48,626.00

Violation Number 10 (Finding 16)

Violation Description: *Utah Code § 19- 6-113(3)(c) by knowingly making false material statements and representations on facility tank logs in 2021.*

1. Gravity Based Penalty: \$8,000.00

(a) Potential for Harm – Major

Tracking of used oil from the time of collection until it is recycled, burned, or disposed of is a critical regulatory component of RCRA and DEQ’s Used Oil Program. Making false material statements and representations on facility tank logs has a high adverse effect on the Division’s implementation of the Used Oil Program.

(b) Extent of Deviation – Moderate

TSOR made false material statements and representation on multiple tank logs, but some entries were correct.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) **Willfulness/Negligence: 5% Increase @ \$400.00**

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: NA

4. Recalculation of Penalty based on New Information: NA

Violation 10: Penalty Total: \$8,400.00