



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of
Environmental Quality

L. Scott Baird
Executive Director

DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL
Ty L. Howard
Director

September 2, 2020

Charles R. Welty, President
Tri State Oil Reclaimers, Inc
1770 Otto Road
Cheyenne, WY 82001

RE: **PROPOSED STIPULATION AND CONSENT ORDER No. 2006055 for resolution of
NOTICE OF VIOLATION No. 2003041**
UTR000013953

Dear Mr. Welty:

Enclosed please find a copy of the PROPOSED STIPULATION AND CONSENT ORDER (SCO) and penalty narrative that will be available for public review and comment. The public comment period is scheduled for 30 days.

After consideration of public comments, I may finalize or revise the SCO for your consideration. If finalized, it will be sent to Tri State Oil Reclaimers, Inc for signature. The time frames in the 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 David Wheeler at (801) 536-0260.

Sincerely,

Ty L. Howard, Director
Division of Waste Management and Radiation Control

TLH/DSW/al

Enclosures: Proposed SCO No. 2006055 (DSHW-2020-012230)
Penalty Narrative for Proposed SCO No. 2006055 (DSHW-2020-011134)

c: Ralph Clegg, EHS, MPA, Health Officer, Utah County Health Department
Tyler Plewe, (Interim) Environmental Health Director, Utah County Health Department
Annette Maxwell, USEPA, Region VIII

DSHW-2020-012228

195 North 1950 West • Salt Lake City, UT
Mailing Address: P.O. Box 144880 • Salt Lake City, UT 84114-4880
Telephone (801) 536-0200 • Fax (801) 536-0222 • T.D.D. (801) 536-4284
www.deq.utah.gov

Printed on 100% recycled paper

---oo0oo---

In the Matter of:	:	PROPOSED STIPULATION AND CONSENT ORDER
	:	
Tri State Oil Reclaimers, Inc	:	No. 2006055
Notice of Violation No. 2003041	:	
UTR000013953	:	

---oo0oo---

This **STIPULATION AND CONSENT ORDER** is issued by the DIRECTOR OF THE UTAH DIVISION OF WASTE MANAGEMENT AND RADIATION CONTROL pursuant to the Utah Used Oil Management Act (the Act), Utah Code §19-6-701, *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) and 19-6-721 for Used Oil and jurisdiction over Tri State Oil Reclaimers, Inc (Tri State) owned and operated by Tri State. Tri State and the Director are the parties to this agreement.

FINDINGS

2. Tri State is a Wyoming corporation registered to do business in Utah. Tri State is the owner and operator of the used oil processor facility located at 12370 West Mountain Road, Genola, Utah (Genola facility). Tri State’s home office is located at 1770 Otto Road, Cheyenne, WY 82001.
3. The Genola facility is a used oil processor facility in Utah County, Utah. Tri State operates the Genola facility under the provisions of its Used Oil Processor Permit (# UOP-0172) issued by the Director on February 2, 2018 (the Permit).
4. Tri State is a “person” as defined in Utah Code §19-1-103(4) and is subject to all applicable provisions of the Utah Administrative Code (the Rules), the Act, and the Permit.
5. On February 6, 2020, authorized representatives of the Director conducted a compliance evaluation inspection conducted at Tri State's Genola facility. Based on findings documented during the February 6, 2020 inspection, the Director issued NOTICE OF VIOLATION No. 2003041 (NOV) on April 17, 2020, alleging violations by Tri State of the Permit.
6. In accordance with the Civil Penalty Policy, R315-102 of the Rules, which considers such factors as the gravity of the violations, 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.

STIPULATION AND CONSENT ORDER

7. The parties now wish to fully resolve Notice of Violation No. 2003041 (NOV) without further administrative or judicial proceedings.
8. In full settlement of the violations alleged in Notice of Violation No. 2003041 (NOV), Tri State shall pay a penalty of \$2,000.00 (two thousand dollars). Payment shall be made within thirty days of the effective date of this CONSENT ORDER. Payment shall be made to the State of Utah, Department of Environmental Quality, c/o Ty L. Howard, Director, Utah Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah 84114-4880.

EFFECT OF CONSENT ORDER

9. For the purpose 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 Tri State and any of Tri State's successors, assigns, or other entities or persons otherwise bound by law.
10. 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 its right to initiate enforcement action, including civil penalties, against Tri State in the event of future non-compliance with this CONSENT ORDER, with the Act, with the Rules, or with the Permit; nor shall the State be precluded in any way from taking appropriate action should such a situation arise again Genola facility. However, entry into this CONSENT ORDER shall relieve Tri State of all liability for violations which did arise or could have arisen with respect to the allegations contained in the NOV.

EFFECTIVE DATE

11. This **CONSENT ORDER** shall become effective upon execution by Tri State and the Director.
12. 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 its consent if any comments received during the Comment Period disclose facts or considerations indicating the CONSENT ORDER is inappropriate, improper, or inadequate.

SIGNATORY

13. The undersigned representative of Tri State certifies he is authorized to enter into this CONSENT ORDER and to execute and legally bind Tri State.

Pursuant to the Utah Used Oil Management Act (the Act), Utah Code §19-6-701, et seq., the parties hereto mutually agree and consent to as evidenced below:

Tri State Oil Reclaimers, Inc

The State of Utah Division of Waste Management
and Radiation Control

Charles R. Welty, President

Ty L. Howard, Director

Date: _____

Date: _____

**NARRATIVE EXPLANATION TO SUPPORT
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**

NOV # 2003041

Violation number 1 -- Failing to maintain the required spill kit materials at its facility.

1. Gravity Based Penalty: \$2,000.00
 - (a) Potential for Harm – **Moderate:** Spill kits are an integral and direct safety measure. Spill from vehicles and processor facilities are fairly common, so it is critical that spill kits have all the required spill material. This is especially true because Tri-State’s facility is constructed on gravel and there is neither a paved parking area nor a loading pad.
 - (b) Extent of Deviation – **Moderate:** On the day of the inspection, no granulated absorbent was available on site for spill cleanups in either the facility spill kits or any of the trucks present, as required by Tri State’s permit.
 - (c) Multiple/Multi-day – N/A (the number of days without adequate spill contents could not be determined)

2. Adjustment Factors (if applicable)
 - (a) Good faith – Gary Cox, the facility manager quickly restocked the facility with the missing material after the inspection. -10%
 - (b) Willfulness/Negligence – N/A.
 - (c) History of Compliance or Noncompliance – This was a repeat violation from the previous inspection. +10%
 - (d) Ability to pay – N/A
 - (e) Other Unique Factors – N/A

3. Economic Benefit – N/A

4. Recalculation of Penalty based on New Information – None

TOTAL: \$2,000