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In the Matter of:	:	STIPULATION AND CONSENT ORDER
	:	
Tri State Oil Reclaimers, Inc	:	No. 2006054
Notice of Violation No. 2004046	:	
WYD988869400	:	

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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 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’s home office is located at 1770 Otto Road, Cheyenne, WY 82001.
3. Tri State conducts used oil transportation operations in Utah from Tri State's processor facility (Tri State Genola facility) located at 12370 West Mountain Road, Genola, Utah. Tri State transports used oil in Utah under the provisions of its Used Oil Transporter Permit (# UOP-0135) issued by the Director on October 25, 2013, as modified (the Permit). The Permit was renewed and reissued on April 13, 2020.
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 at the Tri State Genola facility. Based on findings documented during the February 6, 2020 inspection and associated document review, the Director issued NOTICE OF VIOLATION No 2004046 (NOV) on April 17, 2020, alleging violations by Tri State of its permit, the Act, and the Rules.

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. 2004046 (NOV) without further administrative or judicial proceedings.
8. In full settlement of the violations alleged in NOV No. 2004046, Tri State shall pay a penalty of \$1,100.00 (one thousand, one hundred dollars). Payment shall be made within 210 days of the effective date of this CONSENT ORDER to the State of Utah, Department of Environmental Quality, c/o Ty L. Howard, Director, Division of Waste Management and Radiation Control, P.O. Box 144880, Salt Lake City, Utah 84114-4880.
9. In lieu of payment of the monetary penalty specified in ¶ 8 above,
 - (a) the Director hereby orders Tri State to request a modification to its Used Oil Transporter Permit (# UOP-0135) within 120 days of the effective date of this CONSENT ORDER, and submit the accompanying application fee of \$100.00, to incorporate:
 - i. a tracking system, in accordance with Utah Admin. Code R315-15-4.7, to identify the generator, transporter, transfer facility, burner or processor/re-refiner address using global position system (GPS) coordinates or a street address;
 - ii. a proposed tracking system that addresses all applicable tracking requirements specified in Utah Admin. Code R315-15-4.7, including specifying EPA identification numbers on tracking records, if applicable;
 - iii. employee training requirements to implement the tracking system, including identifying GPS coordinates; and
 - iv. an internal-audit system for Tri State to routinely and randomly verify and document that the Tri State tracking system is accurately recording the addresses, whether street or GPS coordinates, and any automatically entered tracking data in compliance with the Rules.
 - (b) If the Director grants the Permit modification request referenced in ¶ (a) above within 180 days of the effective date of this CONSENT ORDER, the Director shall vacate the monetary penalty specified in ¶ 8 above.
 - (c) Or, if 180 days of the effective date of this CONSENT ORDER have passed and the Permit has not been modified as specified in ¶ (a) above, Tri State shall pay the penalty of \$1,100.00 (one thousand, one hundred dollars in accordance with ¶ 8 above.

EFFECT OF CONSENT ORDER

10. 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.
11. 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. 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

12. This CONSENT ORDER shall become effective upon signature of the Director.
13. 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

14. 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, Utah Code §19-6-701, et seq., the parties hereto mutually agree and consent to as evidenced below:

TRI STATE OIL RECLAIMERS, INC

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 # 2004046

Violation number 1 -- Failing to record EPA Identification Numbers of generators from whom it collected used oil.

1. Gravity Based Penalty: \$600.00
 - (a) Potential for Harm – **Minor:** It is unlikely that any used oil would be released as a result of this omission, and other information identifying the generators was present on the tickets.
 - (b) Extent of Deviation – **Major:** Most of the tickets that should have had the EPA ID numbers lacked them.
 - (c) Multiple/Multi-day – N/A

2. Adjustment Factors (if applicable)
 - (a) Good faith – NA
 - (b) Willfulness/Negligence – NA
 - (c) History of Compliance or Noncompliance – +10% This was a repeat violation.
 - (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: \$660.00

(attach additional sheets if necessary)

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

NOV # 2004046

Violation number 2 -- Failing to record EPA Identification Numbers of used oil burners to whom it delivered used oil.

1. Gravity Based Penalty: \$400.00
 - (a) Potential for Harm – **Minor:** It is unlikely that any used oil would be released as a result of this omission, and other information identifying the burners was present on the tickets.
 - (b) Extent of Deviation – **Moderate** Two of three of the tickets that should have had the EPA ID numbers lacked them.
 - (c) Multiple/Multi-day – N/A

2. Adjustment Factors (if applicable)
 - (a) Good faith – NA
 - (b) Willfulness/Negligence – N/A
 - (c) History of Compliance or Noncompliance – +10% This was a repeat violation.
 - (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: \$440.00