



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. 2111117 for Resolution of
NOTICE OF VIOLATION AND COMPLIANCE ORDER No. 2111114**
Used Oil Processor UOP-0172 – Genola Facility
UTR000013953

Dear Ms. Welty:

Enclosed please find **Proposed** STIPULATION AND CONSENT ORDER (SCO) No. 2111117 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. 2111117 (DSHW-2022-027372)
Narrative Explanation to Support Penalty Amount (DSHW-2022-027374)

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. 2111117
(NOV/CO) No. 2111114		
UOP-0172		
UTR000013953		

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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 (the Director) 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 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 Utah County, at 2370 West Mountain Road, Genola, Utah (Genola 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-0172).
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-0172 issued to TSOR as operator of a used oil processor facility in Utah.
6. Based on findings determined during inspections of the Genola Facility on June 24, 2021, and September 9, 2021, and additional review of records, the Director issued Notice of Violation and Compliance Order (NOV/CO) No. 2111114 on May 20, 2022, which cited violations of the Act, the Utah Solid and Hazardous Waste Act, the Rules, and Permit UOP-0172.

PROPOSED – SETTLEMENT NEGOTIATIONS

7. On July 15, 2022, TSOR filed a written response to the NOV/CO.
8. On accordance with the Civil Penalty Policy, Utah Admin. Code (UAC) 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. 2111114.

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. 2111114 without further administrative or judicial proceedings.
10. In full settlement of the violations alleged in NOV/CO No. 2111114, TSOR shall:
 - 10.1. Pay a penalty of \$44,245.00 (forty-four thousand two-hundred forty-five dollars).
 - 10.2. A cash payment of \$22,122.50 (twenty-two thousand one-hundred twenty-two dollars and fifty cents) 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, \$22,122.50 (twenty-two thousand one-hundred twenty-two dollars and fifty cents), 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 Genola Facility used oil processor permit (Permit UOP-0172), 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 \$22,122.50 (twenty-two thousand one-hundred twenty-two dollars and fifty cents) 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 \$22,122.50 (twenty-two thousand one-hundred twenty-two dollars and fifty cents), 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.

PROPOSED – SETTLEMENT NEGOTIATIONS

- 10.3. The Director hereby Orders TSOR Genola Facility to:
- 10.3.1. Submit the Used Oil Processor Annual Report for its Genola Facility for operating year 2022, and an updated Used Oil Processor Annual Report for its Genola Facility for operating year 2021, 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.
 - 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. As required by Permit Condition I.H.1, the date, time, operator's initials, volume of used oil removed from each tank, and the destination of each load of used oil removed from each individual tank has been recorded in the used oil tank record.
 - 10.3.2.2. As required by Permit Conditions I.D.3 and I.D.4, that TSOR has (1) inspected each container and tank containing used oil, and the secondary containment system at least weekly and (2) for each inspection, recorded in the Genola operating record the inspector's name; the time and date of the inspection; the condition of each tank, container, and secondary containment system; and corrective actions taken to resolve the issues.
 - 10.3.2.3. As required by UAC R315-15-5.5(c)(4 and 5) and Permit Conditions I.D.8 and I.K.1, that TSOR has: (1) removed any accumulations of water (includes 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 oily wastewater).
 - 10.3.2.4. That TSOR has only stored used oil in tanks, containers, or vehicles that are allowed by the current Permit.
 - 10.3.2.5. As required by Utah Admin. Code R315-15-5(d), that TSOR has properly labeled each container storing used oil with the words "Used Oil."
 - 10.3.2.6. As required by Permit Conditions II.F.1 through II.F. 5, that each TSOR employee conducting used oil operations has been adequately trained.
 - 10.3.2.7. 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 10.3.2.6. 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) storage tank records for required Permit Condition I.H.1; (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.K.1 through I.K.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 fine and imprisonment for knowing violations.”

EFFECT OF CONSENT ORDER

11. 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.
12. 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-0172; 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. 2111114.

PROPOSED – SETTLEMENT NEGOTIATIONS

EFFECTIVE DATE

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

PUBLIC PARTICIPATION

14. 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 or considerations indicating the CONSENT ORDER is inappropriate, improper, or inadequate.

SIGNATORY

15. 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. 2111114*, the parties hereto mutually agree and consent to STIPULATION AND CONSENT ORDER No. 2111117 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. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 1 (Finding 7)

Violation Description: *Permit UOP-0172, Condition I.H.1 by failing to record the required information in tank records for all used oil received and shipped from the facility in 2020 and 2021 (January 1, 2021 to June 24, 2021)*

1. Gravity Based Penalty: \$2,000.00

(a) Potential for Harm – Moderate

Failing to keep all required information in the tank 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 also could have been contaminated.

Failure to maintain accurate used oil storage tank logs 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 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 @ \$300.00

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.

(b) Willfulness/Negligence: 15% Increase @ \$300.00

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 May 20, 2020, to June 24, 2021, is \$600.00.

4. Recalculation of Penalty based on New Information: NA

Violation 1: Penalty Total: \$3,200.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 2 (Finding 8)

Violation Description: *Permit Conditions I.D.3 and I.D.4 by failing to document with written inspection records any weekly inspections of the facility’s used oil storage containers, tanks, and secondary containment systems for years 2019, 2020 and 2021.*

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 and recordkeeping is a critical component of the Used Oil Program to evaluate a facilities regulatory compliance.

(b) Extent of Deviation – Moderate

TSOR failed to have any written record of the required weekly inspections (52) of the facility’s used oil storage containers, tanks, and secondary containment system from May 20, 2020, through June 24, 2021. However, TSOR did document the inspections of the Genola Facility’s safety and emergency equipment in that same time period and a total of 25 events was used to calculate the penalty.

(c) Multiple Events: Increase @ \$3,000.00 for 25 events (\$120.00 per event)

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$750.00

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.

(b) Willfulness/Negligence: 15% Increase @ \$750.00

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 Genola 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: 15% Increase @ \$750.00

On June 17, 2019, the Division issued TSOR Warning Letter No.1906042, citing TSOR’s failure to conduct or document the weekly inspections of the facility. TSOR’s Safety Manager stated, “From now on the site will use the inspection sheets provided and they will be sent to TSO in a (*sic*) cheyenne (*sic*) at the completion of each year.”

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$255.00

The Division estimated that TSOR saved at least \$255.00 in employee labor cost saving by failing to record 51 weekly inspections from May 20, 2020, through June 24, 2021 (.25 hrs./inspection @ \$5.00 x 52 events).

4. Recalculation of Penalty based on New Information: NA

Violation 2: Penalty Total: \$7,505.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 3 (Finding 9)

Violation Description: *Utah Admin. Code 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 as the Genola Facility's 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 verification, as ordered in the NOV/CO, in TSOR's response to the NOV/CO, that the facility has returned to compliance with the Rules and the Permit, 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 @ \$420.00

The Division estimated that the parts and labor costs for the replacement or repair of four valves to be \$420.00.

4. Recalculation of Penalty based on New Information: NA

Violation 3: Penalty Total: \$640.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 211117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 211114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 4 (Finding 10)

Violation Description: *Permit Condition I.K.1 by failing to document and maintain records showing proper characterization, handling, and disposal for used oil related wastes which includes the oily wastewater pumped out of the facility's secondary containment system.*

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 marketed 60,000 gallons and 80,000 gallons of off-specification used oil that contained levels of lead at 116 ppm and 291 ppm, respectively. TSOR failed to determine if the oily waste generated from the handling of this off-specification used oil was a hazardous or a non-hazardous waste prior to disposal at Utah municipal landfill.

(b) Extent of Deviation – Major

TSOR does not have any written records documenting proper disposal of oily wastes since the facility was permitted in February of 2018.

(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 as ordered in the NOV/CO, 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 4: Penalty Total: \$3,680.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility

Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 5 (Finding 11)

Violation Description: *Permit Condition II.C.1 by storing used oil in unpermitted tanks (not identified in Table II.C of the Permit).*

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 as the unpermitted tanks did not have a secondary containment system, and a moderate adverse effect on the regulatory purposes for implementing the Used Oil Program.

(b) Extent of Deviation – Major

The Division can document that these unpermitted tanks were in place at the Genola Facility since at least September 10, 2018.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 15% Increase @ \$570.00

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.

(b) Willfulness/Negligence: 15% Increase @ \$570.00

TSOR was aware that storage of used oil in unpermitted tanks was not allowed by the Permit.

(c) History of Noncompliance: 20% Increase @ \$760.00

On May 1, 2017, the Director issued TSOR a Warning Letter for storing over 200,000 gallons of used oil in unpermitted frac tanks at what is now the TSOR Genola Facility.

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$650.00

Updating the Genola Facility Permit to include the unpermitted tanks, if approved by the Division would have been thousands of dollars. However, the economic benefit to TSOR was calculated as only \$650.00, which includes Division fees to apply for a Permit modification and professional review fees for processing the modification as the Division would not have approved the storage of used oil in these types of tanks (poly), which would limit the professional review costs.

4. Recalculation of Penalty based on New Information: NA

Violation 5: Penalty Total: \$6,350.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 6 (Finding 12)

Violation Description: *Permit Condition I.M.1 by failing to submit an updated closure cost estimate for the facility's closure plan to the Director, within 60 days following a facility modification, that caused an increase in financial responsibility required under Utah Administrative Code (UAC) R315-15-10.*

1. Gravity Based Penalty: \$900.00

(a) Potential for Harm – Minor

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

(b) Extent of Deviation – Major

TSOR failed to increase its financial responsibility required by the Permit and UAC R315-14-10.

(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: Considered but not applied; benefit negligible

4. Recalculation of Penalty based on New Information: NA

Violation 6: Penalty Total: \$900.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 7 (Finding 13)

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: Considered but not applied; benefit negligible

4. Recalculation of Penalty based on New Information: NA

Violation 7: Penalty Total: \$2,100.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 8 (Finding 14)

Violation Description: R315-15-5(d) UAC by failing to label drums containing used oil with the words “Used Oil.”

1. Gravity Based Penalty: \$40.00

(a) Potential for Harm – Minor

There was a minor risk of exposure to human health and the environment at the Genola Facility’s as the drums were closed inside of a fenced area that is locked when facility personnel are not present.

(b) Extent of Deviation – Minor

The extent of deviation was minor as most 55-gallon drums at the facility were properly labeled.

(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: Considered but not applied; benefit negligible.

4. Recalculation of Penalty based on New Information: NA

Violation 8: Penalty Total: \$40.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 9 (Finding 15)

Violation Description: *Permit Condition I.D.7 by failing to maintain the secondary containment system for used oil containers, storage tanks, and piping and ancillary equipment in accordance with UAC R315-15-5.5(c).*

1. Gravity Based Penalty: \$2,600.00

(a) Potential for Harm – Moderate

There was a moderate risk of exposure to human health and the environment as soils/groundwater could have been impacted and a large release of used oil could have allowed oil to leak under the liner and flow adjacent roads used by employees.

(b) Extent of Deviation – Moderate

Significantly deviates from the regulatory requirements but some of the requirements were met.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: 5% Increase @ \$130.00

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase \$300.00 (Labor and Materials)

The Division had difficulty estimating the cost benefit as TSOR did not provide documentation of the costs to repair the liner, but the Division estimated a minimum cost to be \$300.00 (labor and materials) with the assumption that TSOR employees completed the repairs.

4. Recalculation of Penalty based on New Information: NA

Violation 9: Penalty Total: \$3,030.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 10 (Finding 16)

Violation Description: *Permit Conditions II.F.1 through II.F.5 by failing to train employees conducting used oil operations at the Genola Facility as required in the years 2020, and 2021 (January 1, 2021, to June 24, 2021).*

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 eight employees conducting used oil operations at the Genola Facility in 2020.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: NA

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: 20% Increase @ \$760.00

The Division issued TSOR a Warning Letter on June 17, 2019, which cited TSOR for failing to train its employees as required by the Permit.

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Increase Penalty @ \$1,140.00

The Division estimated that TSOR saved employee labor costs of at least \$1,140.00 to conduct a used oil training class attended by eight employees that conducted used oil operations at the Genola Facility.

4. Recalculation of Penalty based on New Information: NA

Violation 10: Penalty Total: \$5,700.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 11 (Finding 17)

Violation Description: *Permit Condition I.P.1 and UAC R315-15-13.5(d) by failing to accurately complete information required on the TSOR Used Oil Processor Annual Report, submitted to the Division in 2021, for operating year 2020.*

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 by failing to submit information required by Permit Condition I.P.1 and UAC R315-15-13.5(d).

(b) Extent of Deviation – Moderate

Although TSOR failed to submit significant amounts of information required in its Use Oil Annual Report, some of the information was submitted.

(c) Multiple Events: NA

2. Adjustment Factors:

(a) Good Faith: 20% Increase @ \$400.00

TSOR has failed to submit a revised 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 a revised Annual Report.

(b) Willfulness/Negligence: 15% Increase @ \$300.00

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

3. Economic Benefit: Economic benefit was not calculated due to difficulty in assessing TSOR's cost savings.

4. Recalculation of Penalty based on New Information: NA

Violation 11: Penalty Total: \$2,700.00



**Narrative Explanation to Support Penalty Amount
For Draft Proposed Stipulation and Consent Order No. 2111117**

Tri State Oil Reclaimers, Inc. – Used Oil Processor UOP-0172 – Genola Facility
Notice of Violation No. 2111114 Draft Total Proposed Penalty Amount (P2): \$44,245.00

Violation Number 12 (Finding 18)

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 12: Penalty Total: \$8,400.00