



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. 2111116 for Resolution of  
NOTICE OF VIOLATION AND COMPLIANCE ORDER No. 2111113**  
Used Oil Transporter Permit UOP-0135 and Marketer Registration UOR-0137  
WYD988869400

Dear Ms. Welty:

Enclosed please find **Proposed** STIPULATION AND CONSENT ORDER (SCO) No. 2111116 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. 2111116 (DSHW-2022-026364)  
Narrative Explanation to Support Penalty Amount (DSHW-2022-026363)

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.**  
Notice of Violation and Compliance Order  
(NOV/CO) No. 2111113  
**UOP-0135 and UOR-0137**  
**WYD988869400**

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**STIPULATION AND CONSENT ORDER**  
**No. 2111116**

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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**

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.

1. 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 transportation and marketing business headquartered at 1770 Otto Road, Cheyenne, Wyoming (TSOR Cheyenne Facility).
4. TSOR operates as a used oil transporter and marketer 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 Transporter Permit (Permit UOP-0135) and Used Oil Marketer Registration (Registration UOR-0137).
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-0135 and Registration UOR-0137 issued to TSOR as owner and operator of its Utah used oil transportation operations and used oil marketing operations, respectively.

## **PROPOSED – SETTLEMENT NEGOTIATIONS**

6. Representatives of the Director conducted the following inspections in 2021:
  - 6.1. On June 17, 2021, at the Jenkins Oil Company facility located at 1100 West 560 North, Industrial Road, Cedar City, Utah;
  - 6.2. On June 24, 2021, at the TSOR West Haven facility located at 2400 South 1900 West, West Haven, Utah; the Triple H Excavating Inc. facility located at 1668 South 1900 West, West Haven, Utah; and the TSOR Genola facility located at 2370 West Mountain Road, Genola, Utah;
  - 6.3. On June 25, 2021, the TSOR West Haven facility located at 2400 South 1900 West, West Haven, Utah;
  - 6.4. On July 1 and 2, 2021, at the TSOR Headquarters in Cheyenne, Wyoming;
  - 6.5. On August 30, 2021, at the TSOR shop located at 14955 South 2200 West, Bluffdale, Utah; and
  - 6.6. On September 9, 2021, at the TSOR Genola facility located at 2370 West Mountain Road, Genola, Utah.
7. Based on the 2021 inspections and review of TSOR records, the Director issued Notice of Violation and Compliance Order (NOV/CO) No. 2111113 on September 7, 2022, which cited violations of the Act, the Utah Solid and Hazardous Waste Act, the Rules, Permit UOP-0135, and Registration UOR-0137.
8. On October 7, 2022, TSOR filed a written response to the NOV/CO.
9. 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. 2111113.
10. Despite the Director's consideration that numerous violations raised substantive concern, he did not include violations that occurred prior to September 7, 2020, in the penalty calculation.

### **STIPULATION AND CONSENT ORDER**

11. This CONSENT ORDER has been negotiated in good faith and the parties now wish to fully resolve NOV/CO No. 2111113 without further administrative or judicial proceedings.
12. In full settlement of the violations alleged in NOV/CO No. 2111113, TSOR shall:
  - 12.1 Pay a penalty of \$111,601.00 (one hundred eleven thousand six hundred one dollars). The total penalty assessed for Violation 10 is \$50,000. The Director has decided not to assess \$634,400 of the total possible penalty for Violation 10. Willfulness and negligence were documented.

## **PROPOSED – SETTLEMENT NEGOTIATIONS**

12.2 A cash payment of \$55,800.50 (fifty-five thousand eight hundred 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.

12.2.1 The remaining penalty amount, \$55,800.50 (fifty-five thousand eight hundred dollars and fifty cents), shall be deferred and waived by the Director if TSOR complies with 12.2, the Orders in 13, and remains in compliance with all of the provisions of the Act, the Utah Solid and Hazardous Waste Act, the Rules, the State-issued Used Oil Transporter Permit (Permit UOP-0135), and Used Oil Marketer Registration (Registration UOR-0137) 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.

12.2.2 If the Director determines that TSOR has failed to comply with the requirements of 12.2.1, the Director will provide written notification to TSOR that the deferred payment of \$55,800.50 (fifty-five thousand eight hundred dollars and fifty cents) has not been waived due to TSOR's failure to comply with the requirements of the CONSENT ORDER.

12.2.3 TSOR shall make a cash payment of \$55,800.50 (fifty-five thousand eight hundred 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.

13. The Director hereby Orders TSOR to:

13.1 Cease storing used oil for longer than 24 hours in the TSOR tank located at the Jenkins Oil Facility in Cedar City, Utah, or the Triple H tank located in West Haven, Utah, until such time that each tank is permitted by the Director in accordance with the Rules.

13.2 Cease marketing untested used oil as on-specification used oil.

13.3 Submit the Used Oil Transporter Annual Report for its transportation operations for operating year 2022, an updated Used Oil Transporter Annual Report for its transportation operations for operating year 2021, and an updated Used Oil Transporter Annual Report for operating year 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.

13.4 On or before the 15<sup>th</sup> 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 for the preceding month that:

## **PROPOSED – SETTLEMENT NEGOTIATIONS**

- 13.4.1 TSOR has not stored used oil longer than 24-hours in tanker trucks or unpermitted tanks in the State of Utah.
- 13.4.2 TSOR has recorded and maintained used oil collection and delivery records for all shipments of used oil transported in the State of Utah in accordance with the requirements of Permit UOP-0135 and Registration UOR-0137.
- 13.4.3 Used oil samples collected by TSOR employees are collected and analyzed in accordance with the requirements of Registration UOR-0137, and TSOR has recorded in the Genola and West Haven Facilities' operating record (i.e., tank logs): (1) the date, the time, and the volume of used oil in the tank at the time of lock down; (2) the date and time the lock was removed; and (3) the volume of oil removed from the tank.
- 13.4.4 Each TSOR employee conducting used oil operations has been adequately trained and complies with the requirements of Permit UOP-0135 and Registration UOR-0137.
- 13.4.5 Any non-compliance found after a review of operations has been corrected. The statement will include a description and corrective action of any non-compliance with the requirements of the Rules, Permit UOP-0135, and Registration UOR-0137. The description shall also include the dates and types of non-compliance, why the non-compliance occurred, and the immediate actions taken by TSOR to return to compliance with the Rules, Permit UOP-0135, and Registration UOR-0137.
- 13.4.6 On or before the 15<sup>th</sup> 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 delivery records for bulk loads of used oil collected from generators and delivered to TSOR's Genola and West Haven Facilities; (2) collection and delivery records for all shipments of on-specification burner fuel collected from a TSOR facility, located in the State of Utah, that was then delivered to customers in Utah or in surrounding states; and (3) collection and delivery records for all shipments of on-specification burner fuel collected from a TSOR facility not located in Utah, that was then delivered to customers in Utah.
- 13.5 For each submittal required by 13.4.1 through 13.4.6, 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.”

## **PROPOSED – SETTLEMENT NEGOTIATIONS**

### **EFFECT OF CONSENT ORDER**

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 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, Permit UOP-0135, or Registration UOR-0137; nor shall the State of Utah be precluded in any way from taking appropriate action should such a situation arise again for used oil transportation operations or used oil marketer operations conducted in Utah. 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. 2111113.

### **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.

**PROPOSED – SETTLEMENT NEGOTIATIONS**

**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. 2111113*, the parties hereto mutually agree and consent to STIPULATION AND CONSENT ORDER No. 2111116 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. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 1 (Finding 18)**

***Violation Description:*** *Utah Admin. Code (UAC) R315-15-4.3(a) by failing to notify of Tri State Oil Reclaimers, Inc. (TSOR)'s used oil transportation activities in accordance with the notification requirements of RCRA Section 3010.*

**1. Gravity Based Penalty: \$600.00**

**(a) Potential for Harm – Minor**

Although the notification requirements of RCRA Section 3010 is a critical component and fundamental to the continued integrity of the Used Oil Program, TSOR had obtained an EPA ID number for hazardous waste transporter and used oil marketer activities but not for used oil transportation activities.

**(b) Extent of Deviation – Major**

Substantial non-compliance as TSOR failed to notify of their used oil transportation activities since they obtained a used oil transporter permit (UOP-0135) from the Division of Waste Management and Radiation Control (Division) in 2013 under EPA ID No. WYD988869400 and after they were notified of this non-compliance in 2019. TSOR to date has not properly notified of used oil transportation activities on EPA Subtitle C Reporting Form 8700-12.

(c) Multiple Events: NA

**2. Adjustment Factors:**

**(a) Good Faith: 15% Increase @ \$90.00**

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. This violation has not been corrected as of September 8, 2023.

**(b) Willfulness/Negligence: 30% Increase @ \$180.00**

**(c) History of Noncompliance: 30% Increase @ \$180.00**

The Division issued TSOR a Warning Letter on June 26, 2019, that notified TSOR its failure to comply with the notification requirements of UAC R315-15-4.3(a). This violation has not been corrected as of September 8, 2023.

(d) Ability to pay: NA

(e) Other Unique Factors: NA

**3. Economic Benefit: NA**

The Division did not calculate economic benefit for this specific violation due to the difficulty in accurately quantifying this parameter.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 1: Penalty Total: \$1,050.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 2 (Finding 19)**

***Violation Description:*** *Permit UOP-0135 and Registration UOR-0137 by failing to have used oil records readily accessible for review upon request of representatives of the Director.*

**1. Gravity Based Penalty: \$2,600.00**

**(a) Potential for Harm – Moderate**

Failure to provide records has a significant impact on implementing the Used Oil Program as these records are used to evaluate a facility's regulatory compliance with the Rules and TSOR's Used Oil Transporter Permit and Marketer Registration.

**(b) Extent of Deviation – Moderate**

Significantly deviates from the regulatory requirement as multiple records were never provided to the Division; however, some records were provided at the time of inspection.

**(c) Multiple Events:** NA

**2. Adjustment Factors:**

**(a) Good Faith: 12% Increase @ \$312.00**

TSOR has failed to comply with Orders 2.a, 2.b, and 2.e in the TSOR NOV/CO No. 2111113 to submit additional used oil records to the Director which subsequently causes the Director to make additional efforts to verify that TSOR returned to compliance.

**(b) Willfulness/Negligence: 20% Increase @ \$520.00**

TSOR demonstrated gross negligence in failing to maintain records readily accessible for review and by failing to comply with the ORDER in the TSOR NOV/CO No. 2111113 to submit used oil records to the Director.

**(c) History of Noncompliance: 15% Increase @ \$390.00**

On May 1, 2017, the Division issued TSOR Warning Letter No.1706407, citing TSOR's failure to maintain used oil transportation records and have them readily accessible for review upon request of representatives of the Director.

**(d) Ability to pay:** NA

**(e) Other Unique Factors:** NA

**3. Economic Benefit: NA**

The Division did not calculate economic benefit for this specific violation due to the difficulty in accurately quantifying this parameter.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 2: Penalty Total: \$3,822.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 211116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 211113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 3 (Finding 20)**

***Violation Description:*** *Utah Admin. Code R315-15-4.7(a) by failing to document on at least 336 collection records for bulk shipments of on-specification used oil, the TSOR facility address and the facility's EPA identification number.*

**1. Gravity Based Penalty: \$1,600.00**

**(a) Potential for Harm – Moderate**

There was a moderate adverse effect on the regulatory purposes for implementing the Used Oil Program.

**(b) Extent of Deviation – Minor**

TSOR deviated somewhat from the regulatory requirements for collection records but 83% of TSOR used oil collection records, dated from September 7, 2020, through July 6, 2021, included the name of the generator/facility and the EPA ID number (when applicable) where the used oil was collected.

(c) Multiple Events: NA

**2. Adjustment Factors:**

**(a) Good Faith: 12% Increase @ \$192.00**

TSOR has failed to promptly correct this violation and has failed to comply with Orders 2.b, TSOR NOV/CO No. 211113 to submit on-specification used oil collection records, dated from July 1, 2022, to August 1, 2022, to the Director, which subsequently will cause the Director to make additional efforts to verify that TSOR has returned to compliance with regulatory requirements cited in Violation 3.

(b) Willfulness/Negligence: NA

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

**3. Economic Benefit: Increase Penalty @ \$320.00**

TSOR received an estimated economic benefit of at least \$320.00 in additional labor costs (16 hours) for employees to generate 193 collection records from September 10, 2020, through July 6, 2021.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 3: Penalty Total: \$2,112.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 4 (Finding 21)**

***Violation Description:*** *Utah Admin. Code R315-15-4.7(b) by failing to: (1) record on used oil BOLs the information required by UAC R315-15-4.7 (b) for shipments of used oil delivered to a receiving facility, including another used oil transporter, transfer facility, burner, or processor; and (2) to keep any written delivery record for multiple shipments of used oil delivered to TSOR's Genola Facility and West Haven Facility.*

**1. Gravity Based Penalty: \$3,000.00**

**(a) Potential for Harm – Moderate**

There was a moderate adverse effect on the regulatory purposes for implementing the Used Oil Program.

**(b) Extent of Deviation – Moderate**

TSOR significantly deviated from the regulatory requirements for delivery records as 58% of TSOR's used oil delivery records, dated from September 7, 2020, through June 17, 2021, had incomplete information or no delivery record was generated.

**(c) Multiple Events: NA**

**2. Adjustment Factors:**

**(a) Good Faith: 12% Increase @ \$360.00**

TSOR has failed to promptly correct this violation and has failed to comply with TSOR NOV/CO No. 2111113, Orders 2.a and 2.b, to submit used oil delivery records which subsequently will cause the Director to make additional efforts to verify that TSOR has returned to compliance with regulatory requirements cited in Violation 4.

**(b) Willfulness/Negligence: NA**

**(c) History of Noncompliance: NA**

**(d) Ability to pay: NA**

**(e) Other Unique Factors: NA**

**3. Economic Benefit: Increase Penalty @ \$1,335.00**

TSOR received an estimated economic benefit of at least \$1,335.00 in additional labor costs for employees to add missing information on 74 used oil delivery records and to create at least 193 delivery records for shipments of used oil delivered to facilities from September 7, 2020, through June 17, 2021.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 4: Penalty Total: \$4,695.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 5 (Finding 22)**

***Violation Description:*** *Permit UOP-0135 (April 13, 2020, and December 11, 2020) Attachment 3, Permit UOP-0135 (October 25, 2013) by failing from January 1, 2020, to March 17, 2020, to determine the halogen content for at least 484 loads of used oil collected directly from generators prior to loading the used oil for transport.*

**1. Gravity Based Penalty: NA**

**(a) Potential for Harm – Moderate**

Violations occurred prior to September 7, 2020: No penalty assessed.

**(b) Extent of Deviation – Major**

Violations occurred prior to September 7, 2020: No penalty assessed.

**(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**

**4. Recalculation of Penalty based on New Information: NA**

**Violation 5: Penalty Total: \$0.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 6 (Finding 23)**

***Violation Description:*** *Permit UOP-0135, Attachment 3, Condition B.6, (April 13, 2020, and December 11, 2020) by failing from April 13, 2020, through June 31, 2021, to conduct quality control duplicate samples on at least 276 of 356 bulk loads of used oil prior to off-load/delivery to the TSOR Genola Facility or the TSOR Haven Facility.*

**1. Gravity Based Penalty: \$1,000.00**

**(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 screen all (at least 234 loads) loads of bulk used oil delivered to its Genola and West Haven Facilities from September 7, 2020, to June 31, 2021.

(c) Multiple Events: NA

**2. Adjustment Factors:**

**(a) Good Faith: 15% Increase @ \$150.00**

TSOR has failed to promptly correct this violation as TSOR stated in the Response to the NOV that drivers did not begin screening bulk loads until after training in September of 2022.

**(b) Willfulness/Negligence: 6% Increase @ \$60.00**

Division inspectors witnessed, during attendance at a used oil training class given to employees in August 2021, TSOR instructing employees to screen all bulk loads of generator used oil prior to off-load at TSOR's Genola and West Haven Facilities. TSOR's Utah Manager and Employee T. C., stated to Division inspectors, during an inspection of the Genola Facility on September 9, 2021, that employees always screened bulk loads of used oil using a halogen test kit prior to off-load at the facility. This was not the case until after the training in September of 2022.

(c) History of Noncompliance: NA

(d) Ability to pay: NA

(e) Other Unique Factors: NA

**3. Economic Benefit: Increase @ \$1,568.00**

TSOR failed to screen at least 234 loads of bulk used oil prior to unloading from September 7, 2020, through June 31, 2021. The cost of a halogen screening test kit was \$6.70 in March of 2020; thus, TSOR had a cost savings by not screening these loads of at least \$1,568.00.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 6: Penalty Total: \$2,778.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 7 (Finding 24)**

***Violation Description:*** Permit UOP-0135 (April 13, 2020, and December 11, 2020), Condition I.F.3 and Attachment 2, Conditions A.1, B.1, and B.2, by failing to record on at least 3,165 used oil collection records the method the TSOR driver used to determine the halogen content prior to collection.

**1. Gravity Based Penalty: \$3,800.00**

**(a) Potential for Harm – Moderate**

Failing to record information required by the Permit on over 3,000 records has at least an adverse effect on the Division's implementation of the Used Oil Program.

**(b) Extent of Deviation – Major**

Failing to record information required by the Permit on over 3,000 records is a major deviation of TSOR's permit requirements.

**(c) Multiple Events:** NA

**2. Adjustment Factors:**

**(a) Good Faith: 12% Increase @ \$456.00**

**(b) Willfulness/Negligence: 5% Increase @ \$190.00**

Failing to record information required by the Permit on over 3,000 records shows at least some negligence by the drivers and compliance managers in fulfilling this requirement.

**(c) History of Noncompliance:** NA

**(d) Ability to pay:** NA

**(e) Other Unique Factors:** NA

**3. Economic Benefit: NA**

Considered but not applied; benefit negligible.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 7: Penalty Total: \$4,446.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 211116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 8 (Finding 25)**

***Violation Description:*** *Permit UOP-0135, Attachment 3, Condition D.1 (April 13, 2020, and December 11, 2020) by failing to have information of file determined as sufficient by the Director to support the use of generator knowledge for 3,165 loads of used oil (2,260,649 gallons) collected from 664 generators from April 13, 2020, through June 31, 2021.*

**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 have any information on file to support the use of generator knowledge.

**(c) Multiple Events: NA**

**2. Adjustment Factors:**

**(a) Good Faith: 12% Increase @ \$108.00**

TSOR failed as ordered in the NOV (ORDER 2.e) to submit information on file for which generators used to support generator knowledge which subsequently has caused the Director to make additional efforts to verify that TSOR has returned to compliance with the requirements of the Permit.

**(b) Willfulness/Negligence: 30% Increase @ \$270.00**

On October 7, 2019, TSOR responded to Warning Letter 1906043, and stated the following action would be taken by TSOR: “TSO needs to coordinate a system for generator acquired knowledge test and supplemental documentation of initial tests. Employees need to still test with current frequency.” On April 13, 2020, TSOR modified their permit to allow the use of generator knowledge and has yet complied with the requirement to have information on file to support the use of oil generator knowledge.

**(c) History of Noncompliance: NA**

**(d) Ability to pay: NA**

**(e) Other Unique Factors: NA**

**3. Economic Benefit: Increase @ \$1,070.00**

An economic benefit to TSOR was calculated with an assumption that it would take a driver at least 5 minutes to obtain a signed statement from every generator they collected oil from September 7, 2020, through June 31, 2021.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 8: Penalty Total: \$2,348.00**





**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 211116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 9 (Finding 26)**

***Violation Description:*** *Utah Admin. Code R315-15-13.4(d)(1-5) by failing to provide an accurate total volume of used oil transported in Utah in 2020 on the Used Oil Annual Report submitted for operating year 2020.*

**1. Gravity Based Penalty: \$600.00**

**(a) Potential for Harm – Minor**

There was a moderate risk of exposure to human health and the environment and adverse impact in implementing the Used Oil Program by failing to submit information required by Permit Condition I.P.1 and R315-15-13.4(d)(1-5) UAC.

**(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: 30% Increase @ \$180.00**

TSOR failed as ordered in the NOV (ORDER 3) a revised Used Oil Transporter Annual Report that documents TSOR's used oil operations conducted in Utah in operating year 2020; and submit a 2021 Used Oil Transporter Annual Report for used oil operations conducted in Utah. Subsequently, this has caused the Director to make additional efforts to verify that TSOR has returned to compliance with the requirements of the Permit.

**(b) Willfulness/Negligence: 15% Increase @ \$90.00**

**(c) History of Noncompliance: 15% Increase @ \$90.00**

(d) Ability to pay: NA

(e) Other Unique Factors: NA

**3. Economic Benefit: NA**

The Division did not calculate economic benefit for this specific violation due to the difficulty in accurately quantifying this parameter.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 9: Penalty Total: \$960.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 10 (Finding 27)**

***Violation Description:*** *Utah Admin. Code R315-15-4.6(a) and R15-15-13.4(a) by storing used oil longer than 24 hours and less than 35 days in the unpermitted TSOR-Cedar City Tank, the TSOR-Unpermitted West Haven Tanks, the TSOR-Triple H Tank, the TSOR-Utah Tank Drop Yard, and in a TSOR tanker parked on the street adjacent to 6183 South 1550 East, Ogden, Utah, without first obtaining a Used Oil Transfer Facility Permit issued by the Director (see Finding 27).*

**1. Gravity Based Penalty: \$10,000.00**

**(a) Potential for Harm – Major**

The storage of used oil longer than 24-hours without the proper secondary containment or security in residential and commercial properties posed a major potential for harm to human health and the environment and had a major adverse effect on the Division’s implementation of the Used Oil Program.

**(b) Extent of Deviation – Major**

TSOR failed to comply with any of the requirements of UAC R315-15-4.6(a) and R15-15-13.4

**(c) Multiple Events: \$2,000.00/day for 179 days @ \$358,000.00**

**2. Adjustment Factors:**

(a) Good Faith: NA

**(b) Willfulness/Negligence: 50% Increase (\$2,000.00 \* 0.5=\$1,000.00/day for 179 days) @ \$179,000.00**

TSOR’s President, C. Welty, and Utah Manager both stated to Division inspectors that they were aware that storing used oil the TSOR-Cedar City Tank was not in compliance with the Rules.

**(c) History of Noncompliance: 30% Increase (\$2,000.00 \* 0.3=\$600.00/day for 179 days) @ \$107,400.00**

On March 3, 2014, and May 1, 2017, TSOR was issued Warning Letters by the Division which cited TSOR for storing used oil longer than 24-hours without obtaining a Used Oil Transfer Facility Permit: in used oil transportation vehicles, and for storing over 242,000 gallons of used oil in frac tanks in 2016 and 2017, respectively.

(d) Ability to pay: NA

(e) Other Unique Factors: NA

**3. Economic Benefit: Increase Penalty (\$167.60/day for 179 days) @ \$30,000.00**

The Division estimates at a minimum TSOR had an economic benefit of at least \$55,500.00 by storing used oil in the unpermitted TSOR-Cedar City Tank from September 7, 2020, through June of 2021. Costs considered: Permitting, financial assurance (pollution liability and closure), tank inspection, construction of secondary containment for the tank, security fencing, employee training, recordkeeping and used oil transportation costs. TSOR estimates that these permitting and operational costs account for \$30,000.

**Violation 10: Penalty Total: \$684,400.00**

**4. Recalculation of Penalty:**

**Violation 10: Penalty Total: \$50,000.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 11 (Finding 28)**

***Violation Description:*** *Permit UOP-0135, Attachment 4, Condition 4.0.1- 4.0.2.6 (October 25, 2013), Permit UOP-0135, Conditions II.E.1-II.E.5 (April 13, 2020, and December 11, 2020) by failing to train employees in between January 1, 2019, to August 29, 2021, as required (see Finding 28).*

**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 11 employees conducting used oil transportation operations in 2020.

**(c) Multiple Events: NA**

**2. Adjustment Factors:**

**(a) Good Faith: NA**

**(b) Willfulness/Negligence: 20% Increase @ \$760.00**

**(c) History of Noncompliance:**

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 @ \$1,380.00**

The Division estimated that TSOR saved employee labor costs of at least \$1,380.00 to conduct a used oil training class attended by 11 employees that conducted used oil transportation operations in Utah in 2020.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 11: Penalty Total: \$5,940.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 12 (Finding 29)**

***Violation Description:*** Registration UOR-0137 (March 24, 2020), Conditions E.1 through E.4, by failing to train employees as required by Registration UOR-0137.

**1. Gravity Based Penalty: \$3,800.00**

**(a) Potential for Harm – Moderate**

Failure to train employees resulted in multiple non-compliances with the Registration and 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 Marketer Registration training to at least 11 employees conducting used oil operations in Utah in 2020.

(c) Multiple Events: NA

**2. Adjustment Factors:**

(a) Good Faith: NA

(b) **Willfulness/Negligence: 20% Increase @ \$760.00**

(c) History of Noncompliance:

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: NA**

Although the Division estimated that TSOR saved employee labor costs of at least \$1,380.00 to conduct a used oil training class attended by 11 employees that conducted used oil marketing operations in Utah in 2020, this class can be done in conjunction with the transporter training which will save TSOR one training session.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 12: Penalty Total: \$4,560.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 13 (Finding 30)**

***Violation Description:*** *Registration UOR-0137 (March 24, 2020), Attachment 2, Condition C, by failing to properly collect used oil samples from TSOR's Genola Facility and West Haven Facility tanks in accordance with sampling Method ASTM-D7831-COLIWASA.*

**1. Gravity Based Penalty: \$2,600.00**

**(a) Potential for Harm – Moderate**

Moderate potential for harm to human health and the environment and adverse effect on implementing the used oil program.

**(b) Extent of Deviation – Moderate**

TSOR deviated significantly from the sampling method but some of the parameters of the tank sampling procedure were met.

**(c) Multiple Events:** NA

**2. Adjustment Factors:**

**(a) Good Faith:** NA

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

TSOR was negligent as they did not ensure that employees were properly collecting samples as required by TSOR's Marketer Registration.

**(c) History of Noncompliance:** NA

**(d) Ability to pay:** NA

**(e) Other Unique Factors:** NA

**3. Economic Benefit: NA**

The Division did not calculate economic benefit for this specific violation due to the difficulty in accurately quantifying this parameter.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 13: Penalty Total: \$2,730.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 14 (Finding 31)**

***Violation Description:*** Registration UOR-0137 (March 24, 2020), Attachment 2, Condition B.1 and B.2, by failing to record in the facility's operating record: (1) the date, the time, and the volume of used oil in the tank at the time of lock down; and (2) the time the lock was removed, and the volume of oil removed from the tank for 58 used oil samples collected from the TSOR Genola Facility tanks and 11 samples from the TSOR West Haven Facility tanks (see Finding 31).

**1. Gravity Based Penalty: \$2,300.00**

**(a) Potential for Harm – Moderate**

Failure to record all the required information had an adverse effect on implementing the used oil program.

**(b) Extent of Deviation – Moderate**

TSOR significantly deviated from the requirements but some of the parameters were met.

**(c) Multiple Events: Increase @ \$3,800.00 for 38 (39-1) events (\$100.00 per event)**

The multi-event penalty was calculated from events that occurred after September 7, 2020.

**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**

The Division did not calculate economic benefit for this specific violation due to the difficulty in accurately quantifying this parameter.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 14: Penalty Total: \$6,100.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 15 (Finding 32)**

***Violation Description:*** *Registration UOR-0137 (March 4, 2014), Conditions 2.1 and B.4, and UOR-0137 (March 24, 2020), Conditions B.1 and B.4, by compositing used oil samples collected from individual tanks at TSOR's Genola Facility and TSOR's West Haven Facility, to determine if the used oil met the specification requirements of UAC R315-15-1.2.*

**1. Gravity Based Penalty: \$3,800.00**

**(a) Potential for Harm – Moderate**

TSOR failed to collect a representative sample of the used oil in individual tanks as required, resulting in a moderate potential for harm to human health and the environment as dilution of the used oil could have resulted in off-specification used oil to be marketed as on-specification burner fuel to customers.

**(b) Extent of Deviation – Major**

All used oil samples collected from tanks at TSOR's Genola and West Haven Facilities sent for analysis after September 7, 2020, were composite samples not individual tank samples.

**(c) Multiple Events: NA**

**2. Adjustment Factors:**

**(a) Good Faith: NA**

**(b) Willfulness/Negligence: NA**

**(c) History of Noncompliance:**

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 @ \$3,250.00**

The Division estimated that TSOR saved at least \$7,800.00 by collecting used oil samples from 35 individual tanks (after September 7, 2020) and compositing these samples into just nine used oil samples which they then sent for analysis. TSOR admits saving in costs of testing but disagrees on the price per sample. The Division is willing to agree with TSOR's costs upon providing invoices showing the cost to be \$125.00/sample for a total of \$3,250.00 for 26 samples.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 15: Penalty Total: \$7,050.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 211116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 211113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 16 (Finding 33)**

***Violation Description:*** *Registration UOR-0137 (March 24, 2020), Condition D.1 by failing to collect and analyze at least four additional quality control sample for the 86 used oil samples collected from tanks at TSOR’s facilities in and out of Utah, that were used to market on-specification used oil to customers in and out of Utah (see Finding 33).*

**1. Gravity Based Penalty: \$900.00**

**(a) Potential for Harm – Minor**

Minor potential for harm as these were quality control duplicate samples.

**(b) Extent of Deviation – Major**

TSOR has failed to comply with this requirement since they obtained Used Oil Marketer Registration in 2014.

**(c) Multiple Events: NA**

**2. Adjustment Factors:**

**(a) Good Faith: 20% Increase Penalty @ \$180.00**

Division inspectors attended a TSOR used oil training class for employees conducted in August of 2021 and witnessed the TSOR trainer instruct employees to collect a quality control sample for every 20 used oil samples collected from tanks at TSOR’s facilities in and out of Utah that were used to market on-specification used oil to customers in and out of Utah. TSOR failed to promptly correct this non-compliance as TSOR stated in its response to the NOV that they “implemented the quality control sampling in July of 2022.”

**(b) Willfulness/Negligence: NA**

**(c) History of Noncompliance: NA**

**(d) Ability to pay: NA**

**(e) Other Unique Factors: NA**

**3. Economic Benefit: Increase Penalty @ \$500.00**

The economic benefits by not analyzing four additional quality controls samples were at least \$1,200.00 (\$300.00 per sample). TSOR admits saving in costs of testing but disagrees on the price per sample. The Division is willing to agree with TSOR costs upon providing invoices showing the cost to be \$125.00/sample for a total of \$500.00 for four samples.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 16: Penalty Total: \$1,580.00**





**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 17 (Finding 34)**

***Violation Description:*** Registration UOR-0137 (March 4, 2014) Condition 3.1, and UOR-0137 (March 24, 2020), Condition D.3, by failing to preserve 47 used oil samples collected for laboratory analysis at temperatures from 4°C to 6° C in accordance with EPA Analytical Methods 9075 (Total Halogens), 8082A (PCBs), and 1010A (Flash point) (see Finding 34).

**1. Gravity Based Penalty: \$600.00**

**(a) Potential for Harm – Minor**

Failure to cool the samples posed a minor potential for harm to human health or the environment.

**(b) Extent of Deviation – Major**

TSOR has failed comply with this requirement for all samples collected between September 7, 2020, and July of 2021.

**(c) Multiple Events:** NA

**2. Adjustment Factors:**

**(a) Good Faith: 5% Increase @ \$30.00**

**(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 considered but not applied; benefit negligible.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 17: Penalty Total: \$630.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 18 (Finding 35)**

***Violation Description:*** *Registration UOR-0137 (March 24, 2020), Condition B.6 and UAC R315-15-7.7, by failing three times to use a Utah-certified laboratory, as specified in UAC R315-15-1.8, to satisfy the analytical requirements of UAC R315-15-7 (see Finding 35).*

**1. Gravity Based Penalty: \$100.00**

**(a) Potential for Harm – Minor**

Failure to use a Utah-certified laboratory posed a minor potential for harm.

**(b) Extent of Deviation – Minor**

TSOR deviated somewhat from the regulator requirement, but the majority of the samples were analyzed by a Utah-certified laboratory.

**(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 considered but not applied; benefit negligible.

**4. Recalculation of Penalty based on New Information:** Although TSOR should have realized this violation by verifying the lab reports upon receiving them, the Division is willing to accept TSOR's counter proposal on the basis that the majority of the samples were analyzed by Summit Environmental Services a Utah-certified laboratory, and those that were not were sent by Summit to Conti without TSOR's knowledge.

**Violation 18: Penalty Total: \$0.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 19 (Finding 36)**

***Violation Description:*** *Utah Admin. Code R315-15-7.3 by marketing at least 350,648 gallons of used oil collected from tanks at TSOR's Genola Facility to customers as on-specification used oil without verifying, sampling, and analyzing the used oil to ensure it had met the specification requirements of UAC R315-15-1.2 (see Finding 36).*

**1. Gravity Based Penalty: \$1,600.00**

**(a) Potential for Harm – Moderate**

Moderate potential for harm to human health and the environment and adverse effect on implementing the Used Oil Program.

**(b) Extent of Deviation – Minor**

TSOR significantly deviated from the requirements but most of the used oil marketed as burner fuel to customers had been determined to have met the specification requirements for on-specification burner fuel.

(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**

The Division did not calculate economic benefit for this specific violation due to the difficulty in accurately quantifying this parameter.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 19: Penalty Total: \$1,600.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 20 (Finding 37)**

***Violation Description:*** *Utah Admin. Code R315-15-7.2 by shipping 209,389 gallons of off-specification used oil to used oil burners that are prohibited to burn off-specification used oil as specified in UAC R315-15-6.2 (see Finding 37).*

**1. Gravity Based Penalty: \$0.00**

**(a) Potential for Harm – Major**

Violations occurred prior to September 7, 2020: No penalty assessed.

**(b) Extent of Deviation – Major**

Violations occurred prior to September 7, 2020: No penalty assessed.

(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**

**4. Recalculation of Penalty based on New Information: NA**

**Violation 20: Penalty Total: \$0.00**



**Narrative Explanation to Support Penalty Amount  
For Draft Proposed Stipulation and Consent Order No. 2111116**

Tri State Oil Reclaimers, Inc. – Used Oil Transporter (UOP-0135) & Marketer (UOR-0137)  
Notice of Violation No. 2111113 – Draft Total Proposed Penalty Amount: **\$111,601.00**

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**Violation Number 21 (Finding 38)**

***Violation Description:*** *Utah Code § 19- 6-113(3)(c) by knowingly omitting material information, making false material statement and false representation on used oil manifests, records, reports, and other documents filed, maintained, or used for purposes of compliance with this part or RCRA (see Finding 38).*

**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 transportation records 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 used oil transportation records, but some records were correct.

**(c) Multiple Events: NA**

**2. Adjustment Factors:**

**(a) Good Faith: NA**

**(b) Willfulness/Negligence: 15% Increase @ \$1,200.00**

**(c) History of Noncompliance: NA**

**(d) Ability to pay: NA**

**(e) Other Unique Factors: NA**

**3. Economic Benefit: NA**

The Division did not calculate economic benefit for this specific violation due to the difficulty in accurately quantifying this parameter.

**4. Recalculation of Penalty based on New Information: NA**

**Violation 21: Penalty Total: \$9,200.00**