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November 17, 2014

Brandon Franklin, Regional Manager  
Red Giant Oil Company  
Tri-State Recycling Services, Inc.  
10 Big Red Road  
Newcastle, Wyoming 82701

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

7004 1160 0005 5671 2634

RE: Compliance Evaluation Inspection  
Notice of Violation and Compliance Order  
WYD982591364

Dear Mr. Franklin:

Enclosed is **NOTICE OF VIOLATION AND COMPLIANCE ORDER (NOV/CO)** No. 1409017, based on findings documented during a compliance inspection by Division of Solid and Hazardous Waste inspectors on May 28, 2014. Please be advised that compliance with this ORDER is mandatory and will not relieve Red Giant Oil Company of liability for past violations.

If you have any questions, please call Michelle Weis at (801) 536-0256.

Sincerely,

Scott T. Anderson, Director  
Division of Solid and Hazardous Waste

STA/MAW/kl

Enclosure: Notice of Violation and Compliance Order

c: David Duster, USEPA, Region VIII (Email)

DSHW-2014-012011

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In the Matter of: : **NOTICE OF VIOLATION AND COMPLIANCE ORDER**  
: :  
Red Giant Oil Company : No. 1409017  
WYD982591364 :

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This **NOTICE OF VIOLATION AND COMPLIANCE ORDER (NOV/CO)** is issued by the Director of the Division of Solid and Hazardous Waste pursuant to the Utah Used Oil Management Act (the Act), Utah Code Ann. § 19-6-701, *et seq.* The Director has authority to issue such NOTICES and ORDERS in accordance with Utah Code Ann. § 705 and 721.

### FINDINGS

1. Red Giant Oil Company (Red Giant), currently permitted as Tri-State Recycling, is a Wyoming Company permitted to do business in the State of Utah. Red Giant operates out of Downey, Idaho and Newcastle, Wyoming and collects, transports and markets used oil in Utah.
2. Red Giant is a “person” as defined in Utah Code Ann. § 19-1-103(4) and is subject to all applicable provisions of the Act and R315 of the Utah Administrative Code. Red Giant is permitted to operate in Utah as a used oil transporter (Permit - UOP-0025) and a registered used oil marketer (Registration - UOR-0071).
3. Authorized representatives of the Director conducted a compliance evaluation inspection of Red Giant’s transportation and marketing facility location in Ogden, Utah on May 28, 2014. Red Giant has applied for a permit to process used oil at this location but the Permit has not yet been approved by the Director. Red Giant is currently operating solely as a used oil transporter at this location.
4. R315-15-13.4(e) of the Utah Administrative Code requires that the Red Giant notify the Director in writing of any changes in the information submitted in the application for a Transporter Permit within 20 days of the change.

The inspector documented that Tri-State Recycling Inc. (TSR) officially merged with Red Giant Oil Company/Searl Petroleum on June 17, 2013. The Permittee failed to notify the Director of the change in ownership.

5. The Permittee’s Transporter Permit (Attachment 2.2.1(a) and (b)) requires that drivers screen used oil for halogens prior to acceptance for transport using an unexpired Dexsil CLOR-D-TECT<sup>®</sup> kit and record the analytical results on the Bill of Lading (BOL).
  - a. The inspector documented that all of the unused Dexsil CLOR-D-TECT<sup>®</sup> kits stocked in Red Giant’s used oil collection vehicles that were ready for the daily collection route had

expiration dates of July of 2013. On May 27, 2014, expired CLOR-D-TECT® kits were used by Red Giant's collection driver to screen used oil for halogens.

- b. The inspector documented 34 used oil collection records (BOLs) where the Permittee did not record that the used oil was screened for halogens prior to collection.

- 6. In accordance with R444-14 of the Utah Administrative Code, analytical data used to demonstrate compliance with the Used Oil Management Act must be generated by a Utah-certified laboratory.

The inspector documented that the Permittee marketed used oil as "on-specification" to ten customers in Utah between August 6, 2013 and November 12, 2013 using analytical data from a laboratory not certified by the State of Utah.

- 7. The Permittee's Transporter Permit (Module II, H.1.b) requires the Permittee to record, on the BOL, the EPA Identification Number and address of the generator when collecting used oil.

- a. The inspector documented three BOLs without the EPA Identification Number of the generator.

- b. The inspector documented 34 BOLs without the address of the generator.

- 8. The Permittee's Used Oil Transporter Permit (Attachment 1, Section 1.3.3) requires the driver of the used oil transport vehicle to sign each BOL.

The inspector documented 15 BOLs without a signature of the Permittee's driver.

- 9. The Permittee's Transporter Permit (Attachment 5, Sections 5.3) requires that records of initial and annual training be maintained in the employee files at the Permittee's facility.

The inspector requested annual training records for used oil personnel for 2013; one employee's records could not be found.

### **DETERMINATION OF VIOLATIONS**

Based on the foregoing FINDINGS, Red Giant has violated provisions of the Act, the Utah Administrative Code and the Permit applicable to its facility. Specifically, Red Giant has violated the following:

- 1. R315-15-13.4(e) of the Utah Administrative Code by failing to notify the Director of the company's ownership and address change within 20 days of the change.
- 2. Attachment 2, Section 2.2.1(a) and (b) of the Transporter Permit by screening used oil prior to acceptance for transport with an expired Dexsil CLOR-D-TECT® kit and by failing to document the results of the analytical screening on the BOL.
- 3. R444-14 of the Utah Administrative Code by failing to use a Utah-certified laboratory to determine used oil was "on-specification" when marketing used oil to customers in Utah.

4. Module II, H.1.b of the Transporter Permit by failing to include the generator's EPA Identification Number and facility address on the BOL.
5. Attachment 1, Section 1.3.3 of the Transporter Permit by failing to record the signature of the Permittee's driver on the collection record.
6. Attachment 5, Sections 5.1.1 and 5.2 of the Transporter Permit by failing to document the annual used oil training of an employee.

### **ORDER**

Based on the foregoing FINDINGS AND VIOLATIONS Red Giant is hereby ordered to:

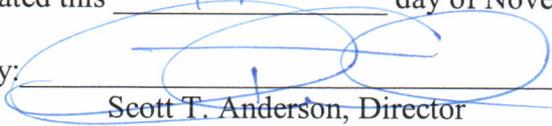
1. Submit to the Director on or before December 17, 2014, written notification of Red Giants' intent to comply with this ORDER and a written description of the procedures that have or will be implemented to ensure that the violations documented herein do not recur.
2. Submit to the Director on or before December 17, 2014, a Transporter Permit modification to update the company name and address change.

### **OPPORTUNITY FOR HEARING**

This NOTICE OF VIOLATION AND COMPLIANCE ORDER is effective immediately and shall become final unless Red Giant administratively contests it. Failure to contest this NOTICE OF VIOLATION AND COMPLIANCE ORDER in the manner and within the time period prescribed by R305-7-303 of the Utah Administrative Code constitutes a waiver of any right of administrative contest, reconsideration, review, or judicial appeal.

Utah Code Ann. Section 19-6-721 provides that violation of any order, plan, rule, or other requirement issued or adopted under Title 19, Ch. 6, Pt. 7 may be subject to a civil penalty of up to \$10,000 per day for each day of violation.

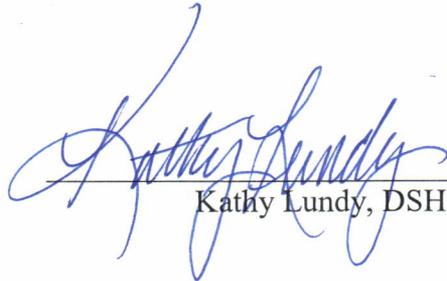
Dated this 17<sup>th</sup> day of November, 2014

By:   
\_\_\_\_\_  
Scott T. Anderson, Director  
Division of Solid and Hazardous Waste

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I mailed a true and correct copy of the foregoing **NOTICE OF VIOLATION AND COMPLIANCE ORDER** on November 17, 2014 by US Certified Mail, Return Receipt Requested 7004 1160 0005 5671 2634 to:

Brandon Franklin, Regional Manger  
Red Giant Oil Company  
Tri-State Recycling Services, Inc.  
10 Big Red Road  
Newcastle, Wyoming 82701



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Kathy Lundy, DSHW

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**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mail or on the front if space permits.

1. Article Addressed to:

**BRANDON FRANKLIN REGIONAL MANGER  
RED GIANT OIL COMPANY  
TRI-STATE RECYCLING SERVICES INC  
10 BIG RED ROAD  
NEWCASTLE WYOMING 82701**

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature *Tanya Brown*  Agent  
 Addressee

By (Printed Name) *Tanya Brown* C. Date of Delivery *11-20*

Address different from item 1?  Yes  
Delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number  
**7004 1160 0005 5671 2634**