



8. In full settlement of the violations alleged in the NOV/CO, Red Giant shall pay a penalty of \$. Full payment shall be made within thirty days of entry into this **CONSENT ORDER** to the State of Utah, Department of Environmental Quality, c/o Scott T. Anderson, Director, Division of Solid and Hazardous Waste, P.O. Box 144880, Salt Lake City, Utah 84114-4880. This amount has been determined in accordance with the Board's Civil Penalty Policy (R315-102 of the Utah Administrative Code), which considers such factors as the gravity of the violations, the extent of deviation from the rules, the potential for harm to human health and the environment, good faith efforts to comply and other factors.

### **EFFECT OF CONSENT ORDER**

9. For purposes of this **CONSENT ORDER**, the parties agree and stipulate to the above stated facts. The stipulations contained herein are for the purposes of settlement and shall not be considered admissions by any party and shall not be used by any person related or unrelated to this **CONSENT ORDER** for purposes other than determining the basis of this **CONSENT ORDER**. Nothing contained herein shall be deemed to constitute a waiver by the State of its right to initiate enforcement action, including civil penalties, against Red Giant in the event of future non-compliance with this **CONSENT ORDER**, the Act, the Utah Administrative Code or the Permit; nor shall the State be precluded in any way from taking appropriate action should such a situation arise again at Red Giant. However, entry into this **CONSENT ORDER** shall relieve Red Giant of all liability for violations which did arise or could have arisen with respect to the allegations contained in the NOV/CO.

### **EFFECTIVE DATE**

10. This **CONSENT ORDER** shall become effective upon execution by Red Giant and the Director.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015

Red Giant Oil Company

Division of Solid and Hazardous Waste

\_\_\_\_\_

\_\_\_\_\_

Brandon Franklin, Regional Manager

Scott T. Anderson, Director

**NARRATIVE EXPLANATION TO SUPPORT  
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER  
Red Giant Oil Company**

**TOTAL PENALTY AMOUNT: \$11,740.00**

NOV # 1410017 SCO # 1410020

**Violation Number 1**

**Description:** Failure to notify the Director of company's ownership and address change within 20 days of the change.

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

(a) **Potential for Harm - Minor**

Failure to notify the Director of company name and address change posed a minor risk to human health and the environment as the required financial assurance mechanism remained valid.

(b) **Extent of Deviation – Major**

The Director was not notified of the company name and address change within 20 days of change. The Transporter Permit listed Wyoming as the facility address but Red Giant has been operating as a used oil transporter for over a year out of a facility located in Ogden, Utah.

**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 1 Penalty Total: \$ 600.00**

**NARRATIVE EXPLANATION TO SUPPORT  
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER  
Red Giant Oil Company**

NOV # 1410017 SCO # 1410020

**Violation Number 2a**

**Description:** Using expired Clor-D-Tect® kits to screen for halogens.

**1. Gravity Based Penalty: \$1,200.00**

(a) **Potential for Harm - Moderate**

The facility used Clor-D-Tect® kits that had expired in July of 2013 to screen the used oil for halogens on May 27, 2014. Chemicals in the Clor-D-Tect® kits degrade and may fail to detect halogen levels of over 1,000 ppm. The used oil could be contaminated with hazardous waste. If the driver does not properly test prior to loading the oil, then the resulting mixture could contaminate the entire load and emergency responders would not have sufficient information in the event of a spill to adequately protect human health.

(b) **Extent of Deviation - Minor**

The Permittee uses the appropriate unexpired kits most of the time.

(c) **Multi-Event** – Three events x \$1,200.00 = \$3,600.00

**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 2a Penalty TOTAL: \$3,600**

**NARRATIVE EXPLANATION TO SUPPORT  
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER  
Red Giant Oil Company**

NOV # 1410017 SCO # 1410020

**Violation Number 2b**

**Description:** Failure to record the Clor-D-Tect® halogen screening results on the Bill of Lading.

**1. Gravity Based Penalty: \$1,200.00**

(a) **Potential for Harm - Moderate**

The facility is required to screen used oil with a Clor-D-Tect® kit and record the result on the Bill of Lading (BOL). The used oil could be contaminated with hazardous waste. If the driver does not properly test prior to loading the oil, then the resulting mixture could contaminate the entire load and emergency responders would not have sufficient information in the event of a spill to adequately protect human health.

(b) **Extent of Deviation - Minor**

The Permittee successfully documented halogen screening on a majority the collection records reviewed.

**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 2b Penalty TOTAL: \$1,200.00**

**NARRATIVE EXPLANATION TO SUPPORT  
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER  
Red Giant Oil Company**

NOV # 1410017 SCO # 1410020

**Violation Number 3**

**Description:** Failure to analyze used oil using a Utah-certified lab before marketing and transporting as on-specification oil.

**1. Gravity Based Penalty: \$1,200.00**

(a) **Potential for Harm - Moderate**

Without using a laboratory certified by the State of Utah, quality of the data cannot be verified.

(b) **Extent of Deviation – Minor**

Most of the shipments have been properly tested by a Utah-certified laboratory.

(c) **Multiple Events** – Five events x \$1,200.00= \$6,000.00

**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 by not applied. Analytical costs were still incurred by the Permittee at a non-Utah certified laboratory.**

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

**Violation 3 Penalty TOTAL: \$6,000.00**

**NARRATIVE EXPLANATION TO SUPPORT  
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER**  
Red Giant Oil Company

NOV # 1410017 SCO # 1410020

**Violation Number 4**

**Description:** Failure to include the generator's EPA Identification number and facility address on the BOL.

**1. Gravity Based Penalty: \$40.00**

(a) **Potential for Harm - Minor**

Even without the EPA identification number and facility address on the BOL, the driver recorded halogen content at these locations and then correctly transported and delivered the used oil.

(b) **Extent of Deviation - Minor**

The Permittee recorded this information on the BOL for most of the facilities that had EPA identification numbers.

**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 4 Penalty TOTAL: \$40.00**

**NARRATIVE EXPLANATION TO SUPPORT  
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER  
Red Giant Oil Company**

NOV # 1410017 SCO # 1410020

**Violation Number 5**

**Description:** Failure to record the signature of the Permittee's driver on the collection record.

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

(a) **Potential for Harm - Minor**

Even without the signature, the driver correctly recorded the halogen content at these locations and then correctly transported and delivered the used oil.

(b) **Extent of Deviation - Minor**

Most of the Permittee's drivers signed the collection records as required by the Permit.

**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 5 Penalty TOTAL: \$100.00**

**NARRATIVE EXPLANATION TO SUPPORT  
PENALTY AMOUNT FOR PROPOSED STIPULATION AND CONSENT ORDER  
Red Giant Oil Company**

NOV # 1410017 SCO # 1410020

**Violation Number 6**

**Description:** Failure to document the annual used oil training of an employee.

**1. Gravity Based Penalty: \$200.00**

(a) **Potential for Harm - Minor**

The Permittee stated the driver had been trained for handling used oil but had only failed to record the driver's training in the facility records.

(b) **Extent of Deviation - Minor**

Training documentation was available for all but one of the Permittee's employees.

**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: \$200.00**

**Red Giant Oil Company - Draft Calculation Work Sheet ( March 2015) - SCO # 1410020**

<b>PROPOSED TOTAL PENALTY</b>		<b>\$11,740.00</b>	
<b>Finding 1</b>	<b>Failure to notify the Director of company's ownership and address change within 20 days of the change</b>	<b>Multi-Day Event Percent +/-</b>	<b>Finding 1</b>
	Gravity based penalty from matrix		\$600.00
	(a) Potential for harm		<b>MINOR</b>
	(b) Extent of deviation		<b>MAJOR</b>
<b>Proposed Finding 1 Penalty</b>		<b>\$600.00</b>	
<b>Finding 2a</b>	<b>Using expired Clor-D-Tect® kits to screen for halogens.</b>	<b>Multi-Day Event Percent +/-</b>	<b>Finding 2a</b>
	Gravity based penalty from matrix		\$1,200.00
	(a) Potential for harm		<b>MODERATE</b>
	(b) Extent of deviation		<b>MINOR</b>
	Multiple Event	<b>3</b>	\$3,600.00
<b>Proposed Finding 2 Penalty</b>		<b>\$3,600.00</b>	
<b>Finding 2b</b>	<b>Failure to record the Clor-D-Tect® test halogen screening results on the bill of lading.</b>	<b>Multi-Day Event Percent +/-</b>	<b>Finding 2b</b>
	Gravity based penalty from matrix		\$1,200.00
	(a) Potential for harm		<b>MODERATE</b>
	(b) Extent of deviation		<b>MINOR</b>
<b>Proposed Finding 2 Penalty</b>		<b>\$1,200.00</b>	
<b>Finding 3</b>	<b>Failure to analyze used oil by a Utah certified lab before marketing and transporting as on-specification oil.</b>	<b>Multi-Day Event Percent +/-</b>	<b>Finding 3</b>
	Gravity based penalty from matrix		\$1,200.00
	(a) Potential for harm		<b>MODERATE</b>
	(b) Extent of deviation		<b>MINOR</b>
	Multiple Events	<b>5</b>	\$6,000.00
<b>Proposed Finding 3 Penalty</b>		<b>\$6,000.00</b>	

**Red Giant Oil Company - Draft Calculation Work Sheet ( March 2015) - SCO # 1410020**

<b>PROPOSED TOTAL PENALTY</b>		<b>\$11,740.00</b>	
<b>Finding 4</b>	<b>Failure to include the generator's EPA Identification number and facility address on the BOL.</b>	<b>Multi-Day Event Percent +/-</b>	<b>Finding 4</b>
	Gravity based penalty from matrix		\$40.00
	(a) Potential for harm		<b>MINOR</b>
	(b) Extent of deviation		<b>MINOR</b>
	<b>Proposed Finding 4 Penalty</b>		<b>\$40.00</b>
<b>Finding 5</b>	<b>Failure of the Permittee's driver to sign the collection record.</b>	<b>Multi-Day Event Percent +/-</b>	<b>Finding 5</b>
	Gravity based penalty from matrix		\$100.00
	(a) Potential for harm		<b>MINOR</b>
	(b) Extent of deviation		<b>MINOR</b>
	<b>Proposed Finding 5 Penalty</b>		<b>\$100.00</b>
<b>Finding 6</b>	<b>Failure to document the annual used oil training of an employee.</b>	<b>Multi-Day Event Percent +/-</b>	<b>Finding 6</b>
	Gravity based penalty from matrix		\$200.00
	(a) Potential for harm		<b>MINOR</b>
	(b) Extent of deviation		<b>MINOR</b>
	<b>Proposed Finding 6 Penalty</b>		<b>\$200.00</b>