

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:

**Pine Ridge Transportation, LLC  
Tanner, Limestone County, Alabama  
EPA Identification Number ALR000058933**

Consent Order No. 16-XXX-CHW

**PREAMBLE**

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter “the Department” or “ADEM”) and Pine Ridge Transportation, LLC (hereinafter “Pine Ridge”) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-16, as amended, and the Alabama Hazardous Wastes Management and Minimization Act (hereinafter “AHWMMA”), Ala. Code §§ 22-30-1 to 22-30-24, as amended, and the regulations promulgated pursuant thereto.

**STIPULATIONS**

1. Pine Ridge owns and operates a used oil transportation business with EPA Identification Number ALR000058933, located at 17894 Lindsay Road in Tanner, Limestone County, Alabama. At all times relevant to this action, Pine Ridge was a used oil transporter, a used oil transfer facility, and used oil processor/re-refiner.
2. The Department is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-16, as amended.
3. Pursuant to Ala. Code § 22-22A-4(n), (2006 Rplc. Vol.), the Department is the state agency responsible for the promulgation and enforcement of solid and hazardous waste regulations in accordance with the federal Solid Waste Disposal Act §§ 1002 to 11012, 42 U.S.C. §§ 6901 to 6992k, as amended. In addition, the Department is authorized to administer and enforce the provisions of the AHWMMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended.

## **DEPARTMENT'S CONTENTIONS**

4. On June 30, 2015, representatives of the Department conducted a compliance evaluation inspection (CEI) of Pine Ridge to determine compliance with all applicable requirements of Division 14 of the ADEM Administrative Code. The CEI and a review of Pine Ridge's compliance revealed the following:

(a) Pursuant to ADEM Admin. Code r. 335-14-17-.05(3)(a), a transporter must not transport used oil without having received an EPA Identification Number from the Administrator or the authorized State in which the transporter's base of operations is located. If the transporter's base of operations is located within the State of Alabama, such application shall be submitted to the Department.

Pine Ridge operates a used oil transportation business based in Tanner, Alabama but has not obtained an EPA Identification Number from the Department.

(b) Pursuant to ADEM Admin. Code r. 335-14-17-.05(3)(d), a non-rail transporter must not transport used oil without having received an Alabama Used Oil Transport Permit.

Pine Ridge collected used oil from various sources and then transported the used oil to its used oil transfer facility in Tanner, Alabama without having received an Alabama Used Oil Transport Permit from the Department.

(c) Pursuant to ADEM Admin. Code r. 335-14-17-.05(7)(c)1., a container holding used oil must always be closed during storage, except when it is necessary to add or remove used oil.

Pine Ridge did not keep closed seventy-five containers of used oil staged in, near, and behind the Used Oil Storage Area in its transfer facility. At the time of the inspection, used oil was not being added to or removed from the containers.

(d) Pursuant to ADEM Admin. Code r. 335-14-17-.05(7)(h), new aboveground used oil tanks used to store used oil at transfer facilities must be equipped with a secondary containment system.

Pine Ridge did not equip three aboveground used oil tanks staged at the rear of the Used Oil Storage Area in its transfer facility with a secondary containment system.

(e) Pursuant to ADEM Admin. Code r. 335-14-17-.05(7)(i)1., containers and aboveground used oil tanks used to store used oil at transfer facilities must be labeled or marked clearly with the words "Used Oil".

Pine Ridge did not label or marked clearly with the words "Used Oil" the following used oil storage units in its transfer facility:

- i. Seventy-five containers of used oil staged in, near, and behind the Used Oil Storage Area;
- ii. Eight aboveground used oil tanks in the Used Oil Storage Area; and
- iii. Three aboveground used oil tanks staged at the rear of the Used Oil Storage Area.

(f) Pursuant to ADEM Admin. Code r. 335-14-17-.05(7)(j), upon detection of a release of used oil to the environment that is not subject to the corrective action requirements of Division 335-6, Volume 2 of the Alabama Administrative Code, the owner/operator of a transfer facility must perform the following cleanup steps: stop the release; contain the released used oil; clean up and manage properly the released used oil and other materials; and If necessary, repair or replace any leaking used oil storage containers or used oil tanks prior to returning them to service.

Pine Ridge did not clean up and manage properly released used oil, not subject to the corrective action requirements of 335-6, located on the ground along the north, east, and south sides of the Used Oil Storage Area/tank farm and at other locations where totes holding used oil were staged.

(g) Pursuant to ADEM Admin. Code r.335-14-17-.06(3)(b)1.(i), each owner or operator of a used oil processing and re-refining facility must have a contingency plan for the facility. Under ADEM Admin. Code r. 335-14-1-.02(1)(a)301., used oil transfer facilities that store used oil for more than 35 days are subject to regulation under 335-14-17.

Pine Ridge stored used oil at its used oil transfer facility for more than 35 days, thereby becoming subject to requirements applicable to used oil processors/ re-refiners but did not have a contingency plan designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water.

5. As a result of the CEI, the Department issued to Pine Ridge a Notice of Violation (dated September 1, 2015), which cited violations of the hazardous waste regulations that were discovered during the CEI.

6. On September 30, 2015, the Department received Pine Ridge's response to the Notice of Violation of September 1, 2015.

7. Pursuant to Ala. Code § 22-22A-5(18)c., as amended, in determining the amount of any penalty, the Department must give consideration to the seriousness of the violation(s), including any irreparable harm to the environment and any threat to the health or safety of the public; the standard of care manifested by such person; the economic benefit which delayed compliance may confer upon such person; the nature, extent, and degree of success of such person's efforts to minimize or mitigate the effects of such violation(s) upon the environment; such person's history of previous violations; and the ability of such person to pay such penalty. Any civil penalty assessed pursuant to this authority shall not exceed \$25,000.00 for each violation, provided however, that the total penalty assessed in an order issued by the department shall not exceed \$250,000.00. Each day such a violation continues shall constitute a separate violation. In arriving at this civil penalty, the Department has considered the following:

(a) **SERIOUSNESS OF THE VIOLATIONS:** The Department noted seven violations of Division 14 of the ADEM Administrative Code. In arriving at the civil penalty, the Department considered the general nature and magnitude of the violations along with lack of any available evidence of irreparable harm to the environment or threat to the health and safety of the public.

(b) THE STANDARD OF CARE: In considering the standard of care manifested by Pine Ridge, the Department noted that the violations listed above were easily avoidable. Consequently, Pine Ridge did not exhibit a standard of care commensurate with applicable regulatory standards.

(c) ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED: The Department has determined that Pine Ridge gained an economic benefit as a result of its failure to provide secondary containment for three aboveground used oil storage tanks.

(d) EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON THE ENVIRONMENT: There are no known environmental effects to mitigate as a result of the alleged violations.

(e) HISTORY OF PREVIOUS VIOLATIONS: Pine Ridge does not have a documented history of previous violations of Division 14 of the ADEM Administrative Code.

(f) THE ABILITY TO PAY: Pine Ridge has not alleged an inability to pay the civil penalty.

(g) OTHER FACTORS: It should be noted that this Consent Order is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty that is warranted in this matter in the spirit of cooperation and the desire to resolve this matter amicably without incurring the unwarranted expense of litigation. (See "Attachment A", which is made a part of the Department's Contentions).

8. The Department neither admits nor denies Pine Ridge's contentions, which are set forth below. The Department has agreed to the terms of this Consent Order in an effort to resolve the alleged violations cited herein without the unwarranted expenditure of State resources in further prosecuting the alleged violations. The Department has determined that the terms contemplated in this Consent Order are in the best interest of the citizens of Alabama.

### **PINE RIDGE'S CONTENTIONS**

9. Pine Ridge Transportation, LLC (Pine Ridge) thanks the Department for their cooperation and consideration put forth in this proposed Consent Order resulting from the June 30, 2015 Compliance Evaluation Inspection (CEI). Pine Ridge acknowledges the CEI alleges 7 violations of Division 14 regulations at their facility at 17894 Lindsay Road, Tanner, Limestone County, Alabama. For these 7 alleged violations, the Department has proposed to levy a civil penalty in the amount of \$25,380.00 derived from those provisions outlined in Section 7 (a) through (g) of the proposed Consent Order.

Pine Ridge had been collecting used oil in an effort to expand business opportunities to compliment the logistics operations for over-the-road trucking. With this new endeavor, Pine Ridge received \$0 in income from the used oil activities and since the April 11, 2016 teleconference call with the Department, all used oil activities and operations have ceased as the focus has been to remediate, abate and otherwise correct deficiencies in their operations. This has included cleaning and re-building the secondary containment barn, removing excess waste oil from the facility, cleaning stained surface soils, and otherwise improving site conditions in a diligent effort to come into compliance with Division 14 regulations. Beginning April 12, 2016, Pine Ridge has expended no less than \$11,316.00 for these efforts and it is anticipated that an additional \$15,000.00-\$20,000.00 will be required to complete the on-going corrective actions.

Pine Ridge will encounter difficulties in absorbing the proposed fine of \$25,380.00 although every effort will be made to satisfy the obligations as it is our understanding the Department will allow the civil penalty to be paid over a period of 12 months.

Furthermore, Pine Ridge is unable to provide financial documentation such as certified tax returns to be considered for a further reduction in the civil penalty as the respondents were incarcerated during this time and the waste oil operations did not begin until April 2015.

10. Pine Ridge neither admits nor denies the Department's contentions. Pine Ridge consents to abide by the terms of this Consent Order and to pay the civil penalty assessed herein.

#### **ORDER**

Therefore, without admitting that it has violated any statutes or regulations, Pine Ridge, along with the Department, desires to resolve and settle the alleged violations cited above. The Department has carefully considered the facts available to it and has considered the six penalty factors enumerated in Ala. Code § 22-22A-5(18)c., as amended, as well as the need for timely and effective enforcement and the Department believes that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and Pine Ridge agree to enter into this Special Order by Consent with the following terms and conditions:

A. Pine Ridge agrees to pay to the Department a civil penalty in the amount of \$25,380 in settlement of the violations alleged herein within 365 days of the effective date of this Consent Order. Failure to pay the civil penalty within 365 days of the effective date may result in the Department's filing a civil action in the Circuit Court of Montgomery County to recover the civil penalty.

B. Pine Ridge agrees that all penalties due pursuant to this Consent Order shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check or other methods of payment acceptable to the Department and shall be remitted to:

Office of General Counsel  
Alabama Department of Environmental Management  
P.O. Box 301463  
Montgomery, Alabama 36130-1463

Any payment submitted to the Department pursuant to this Consent Order shall reference Pine Ridge's name and address, and the ADEM Administrative Order number of this action.

C. That, within 120 days from the effective date of this Consent Order, Pine Ridge shall provide secondary containment for all containers and aboveground storage tanks used to

store or process used oil at the facility in accordance with the requirements of ADEM Admin. Code rs. 335-14-17-.05(7)(f) and (h) and 335-14-17-.06(5)(c) and (e). Pine Ridge shall provide the Department with documentation demonstrating that all containers and tanks holding used oil at the facility have been provided with adequate secondary containment.

D. That, upon the effective date of this Consent Order, Pine Ridge shall not transport used oil without having received an Alabama Used Oil Transport Permit in compliance with ADEM Admin. Code rs. 335-14-8-.09 through 335-14-8-.13 and r. 335-14-17-.05.

E. Pine Ridge agrees that, independent of this Consent Order, Pine Ridge shall comply with all terms, conditions, and limitations of its Permit and the AHWMA, Ala. Code §§ 22-30-1 to 22-30-24, as amended, and the regulations promulgated pursuant thereto.

F. The Department and Pine Ridge (hereinafter the “parties”) agree that this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented, and to legally bind such party.

G. The parties agree that, subject to the terms of these provisions and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the alleged violations cited in this Consent Order.

H. Pine Ridge agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

I. For purposes of this Consent Order only, Pine Ridge agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in the Circuit Court of Montgomery County.

J. The parties agree that the sole purpose of this Consent Order is to resolve and dispose of all allegations and contentions stated herein concerning the factual circumstances referenced herein. Should additional facts and circumstances be discovered in the future

which would constitute possible violations not addressed in this Consent Order, then such future violations may be addressed in orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate; Pine Ridge agrees not to object to such future orders, litigation, or enforcement action based on the issuance of this Consent Order if future orders, litigation, or other enforcement action address new matters not raised in this Consent Order.

K. The parties agree that this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall not be appealable, and Pine Ridge does hereby waive any hearing on the terms and conditions of this Consent Order.

L. The parties agree that this Consent Order shall not affect Pine Ridge's obligation to comply with any Federal, State, or local laws or regulations.

M. The parties agree that final approval and entry into this Consent Order are subject to the requirements that the Department give notice of proposed orders to the public, and that the public have at least thirty days within which to comment on the Consent Order.

N. The parties agree that, should any provision of this Consent Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with Federal or State law and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

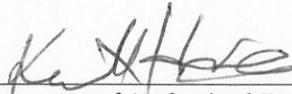
O. The parties agree that any modifications of this Consent Order must be agreed to in writing signed by both parties.

P. The parties agree that, except as otherwise set forth herein, this Consent Order is not and shall not be interpreted to be a permit or modification of an existing permit under Federal, State, or local law, and shall not be construed to waive or relieve Pine Ridge of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

**PINE RIDGE TRANSPORTATION, LLC**

**ALABAMA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT**

  
\_\_\_\_\_  
(Signature of Authorized Representative)

\_\_\_\_\_  
Lance R. LeFleur  
Director

Keith Hines  
\_\_\_\_\_  
(Printed Name)

Manager  
\_\_\_\_\_  
(Printed Title)

5-23-16  
\_\_\_\_\_  
(Date Signed)

\_\_\_\_\_  
(Date Executed)

Attachment A  
Pine Ridge Transportation, LLC  
Tanner (Limestone County), Alabama  
EPA ID No. ALR000058933

Violation	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violation*
Failure to obtain an EPA Identification Number from the Department	1	\$150	\$150	\$0
Transporting used oil without an Alabama Used Oil Transport Permit	1	\$8,000	\$800	\$0
Failure to keep closed 75 containers of used oil	1	\$7,500	\$750	\$0
Failure to provide secondary containment for three aboveground used oil tanks	1	\$1,000	\$100	\$0
Failure to label 86 storage units with the words "Used Oil"	1	\$4,300	\$430	\$0

Violation	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violation*	
Failure to clean up released of used oil on the ground	1	\$1,000	\$100	\$0	
Failure to have a site contingency plan	1	\$1,000	\$100	\$0	Total of Three Factors
TOTAL PER FACTOR		\$22,950	\$2,430	\$0	\$25,380

Adjustments to Amount of Initial Penalty	
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	\$0
Total Adjustments (+/-) <i>Enter at Right</i>	(\$60,800)

Economic Benefit (+)	\$60,800
Amount of Initial Penalty	\$86,180
Total Adjustments (+/-)	(\$60,800)
<b>FINAL PENALTY</b>	<b>\$25,380</b>

Footnotes

\* See the "DEPARTMENT'S CONTENTIONS" portion of the Order for a detailed description of each violation and the penalty factors.