

**ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT**

IN THE MATTER OF:)
)
KTT, LLC)
d/b/a Med Rid Medical Waste Disposal Services)
501 Little Rock Avenue)
Sheffield, Colbert County, Alabama)
_____)

Order No. 21 -XXX -CMW

PREAMBLE

This Special Order by Consent is made and entered into by the Alabama Department of Environmental Management (hereinafter “the Department”) and KTT, LLC d/b/a Med Rid Medical Waste Disposal Services (hereinafter “Med Rid”) pursuant to the provisions of the Alabama Environmental Management Act, Ala. Code §§ 22-22A-1 to 22-22A-17, as amended; the Solid Wastes and Recyclable Materials Management Act (SWRMMA), Ala. Code §§ 22-27-1 to 22-27-18, as amended; and the Alabama Department of Environmental Management’s (hereinafter “ADEM” or “the Department”) Administrative Code of Regulations (hereinafter “ADEM Admin. Code r.”) promulgated pursuant thereto.

STIPULATIONS

1. KTT, LLC d/b/a Med Rid Medical Waste Disposal Services (hereinafter “Med Rid”), a domestic limited liability company, operates a medical waste transporter and treatment facility with ADEM Permit Numbers TRN042910-3902 and TRTS042910-3902, located at 501 Little Rock Avenue in Sheffield, Colbert County, Alabama.
2. Pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended, the Department is a duly constituted department of the State of Alabama.
3. Pursuant to Ala. Code § 22-22A-4(n), as amended, and Ala. Code § 22-27-9(a), as amended, the Department is the state agency authorized to administer and enforce the provisions of the SWRMMA, Ala. Code §§ 22-27-1 to 22-27-18, as amended.

DEPARTMENT'S CONTENTIONS

1. On December 15, 2020, in response to a complaint, representatives of the Department's Environmental Service Branch and the United States Department of Transportation's (USDOT) Pipeline and Hazardous Materials Safety Administration conducted an inspection of the Med Rid facility. The inspection and a review of Med Rid's compliance with certain requirements of the Division 17 of the ADEM Administrative Code and Med Rid's medical waste permits revealed the following:

a. Pursuant to ADEM Admin. Code r. 335-17-5-.01(3) and 335-17-3-.01(5)(a-b), no medical waste transporter shall accept any container of untreated medical waste for transport which shows visible signs of leakage, or which is not properly sealed and labeled. Proper labeling includes the name, address, and the date the waste was packaged in its outermost container.

Med Rid transported medical waste containers that were not properly sealed or labeled. During the inspection, at least, two containers of untreated medical waste were observed on a transport trailer that were not properly packaged and approximately thirty containers of untreated medical waste were not properly labeled with the name and address of the generator facility(-ties), or the date the waste was packaged in the outermost container. Inside the treatment building, more than one hundred boxes of untreated medical waste were observed improperly labeled with no names or addresses of the generator facilities, and no dates showing when the waste was packaged in the outermost containers.

b. Pursuant to ADEM Admin. Code r. 335-17-5-.01(8), surfaces of medical waste transport vehicles which may come into contact with medical waste must be constructed of durable, easily cleanable materials.

Med Rid operated, at least, two transport vehicles with permeable wooden flooring, which showed signs of wear and staining. One transport vehicle contained a large hole in the flooring.

c. Pursuant to ADEM Admin. Code r. 335-17-5-.01(11)(d), all medical waste transport vehicles shall be identified with the certain information, including the ADEM permit number.

Med Rid operated, at least, two transport vehicles that did not exhibit the facility's ADEM permit number.

d. Pursuant to Med Rid's Medical Waste Treatment Permit Condition Part VII.B. and ADEM Admin. Code r. 335-17-6-.01(2)(d)(2), each sterilizer shall be evaluated for effectiveness under full loading by an approved method at least once for each forty hours of combined operation. Biological indicators such as spores of "Bacillus stearothermophilus" may be utilized with Department approval.

Med Rid failed to provide documentation or any other means of proof that its autoclave was being evaluated for effectiveness during each run.

e. Pursuant to Med Rid's Medical Waste Treatment Permit Conditions Part VII.C. and D. and ADEM Admin. Code r. 335-17-6-.01(2)(e), a written log or other means of documentation as approved by the Department shall be maintained for each steam sterilization unit and shall contain certain specified information.

Med Rid failed to maintain a written log or any other means of documentation for the steam sterilization unit.

2. On January 14, 2021, the Department issued to Med Rid a Notice of Violation (hereinafter "NOV") requiring Med Rid to submit documentation indicating the aforementioned violations had been corrected within thirty days of issuance of the notice.

3. On January 19, 2021, the United States Postal Service delivered the NOV to Med Rid.

4. As of February 17, 2021, the Department had not received a response to the NOV.

5. On February 18, 2021, a representative of the Department contacted Mr. Timm Glass, a co-owner of Med Rid, to inquire about Med Rid's response to the NOV. Mr. Glass informed the Department's representative that he had received the NOV through the mail but

requested the NOV be sent to him via email. On February 18, 2021, the Department's representative emailed a copy of the NOV to Mr. Glass.

6. On February 19-21, 2021, the Department received various emails from Med Rid, including photographs and a letter in response to the NOV.

7. On March 2, 2021, the Department completed a review of Med Rid's initial response to the NOV. The Department determined that Med Rid had not adequately addressed the above violations. A review of further documentation submitted to the Department by Med Rid was completed on September 1, 2021.

8. 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 violations, 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 violations 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 for each violation, provided however, that the total penalty assessed in an order issued by the Department shall not exceed \$250,000. 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 VIOLATION:** In arriving at the civil penalty, the Department considered the general nature and magnitude of the violations along with the available evidence of the threat to the health and safety of the public and determined that the violations are serious. However, the Department is unaware of any irreparable harm to the environment, or any immediate threat to human health or to the safety of the public as a result of the violations.

B. **THE STANDARD OF CARE:** In considering the standard of care manifested by Med Rid, the Department noted that the violations described above were non-technical and easily

avoidable. Consequently, Med Rid failed to exhibit a standard of care commensurate with the applicable regulatory standards and terms and conditions of its Medical Waste Program permits.

C. ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED:

The Department has been unable to ascertain if Med Rid has realized a significant economic benefit because of the violations cited herein.

D. EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION UPON

THE ENVIRONMENT: There are no known environmental effects to mitigate because of the violations reference herein.

E. HISTORY OF PREVIOUS VIOLATIONS: Based on a review of departmental records,

Med Rid does not have a documented history of violations of the applicable requirements of ADEM Admin. Code div. 335-17.

F. THE ABILITY TO PAY: Med Rid has not alleged an inability to pay the civil penalty.

G. OTHER FACTORS: It should be noted that this Special Order by Consent is a negotiated settlement and, therefore, the Department has compromised the amount of the penalty it believes 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.)

9. The Department neither admits nor denies Med Rid'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 above violations. The Department has determined that the terms contemplated in this Consent Order are in the best interests of the citizens of Alabama.

MED RID'S CONTENTIONS

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

ORDER

THEREFORE, Med Rid, along with the Department, desires to resolve and settle the noncompliance issue 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 has determined that the following conditions are appropriate to address the violations alleged herein. Therefore, the Department and Med Rid agree to enter into this Consent Order with the following terms and conditions:

A. Med Rid agrees to pay the Department a civil penalty in the amount of \$7,300 in settlement of the violations alleged herein with forty-five days from the effective date of this Consent Order. Failure to pay the civil penalty within forty-five days from 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. Med Rid 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 any other method 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

All payments shall reference Med Rid's legal name and address and the ADEM Administrative Order number of this action.

C. That, within thirty days of the issuance of this Order, Med Rid shall submit the following documentation to the Department:

1. Documentation showing proper labeling of the boxes of untreated medical waste.
2. Photos of the resurfacing or replacement of the wooden boards in all medical waste transport vehicle trailers as proof that the trailers are easily cleanable and durable.
3. Photos of all transport vehicles showing the ADEM permit number and Biohazard symbol.
4. A revised documentation log for the steam sterilization unit to include all information as required by ADEM Administrative Code div. 335-17.

D. Med Rid agrees that, independent of this Consent Order Med Rid shall comply with all terms, conditions, and limitations of its medical waste transport and treatment permits and all applicable requirements of the SWRMMA, Ala. Code §§ 22-27-1 to 22-27-18, as amended and ADEM Administrative Code div. 335-17.

E. The Department and Med Rid (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.

F. 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 violations cited herein.

G. Med Rid agrees that it is not relieved from any liability if it fails to comply with any provision of this Consent Order.

H. For purposes of this Consent Order only, Med Rid 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.

I. 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 concerning the property 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, and Med Rid shall not 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.

J. 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 Med Rid does hereby waive any hearing on the terms and conditions of same.

K. The parties agree this Consent Order shall not affect Med Rid's obligation to comply with any Federal, State, or local laws or regulations.

L. 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 Order.

M. 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.

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

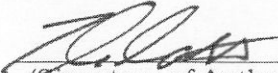
O. That, the Department and Med Rid agree that, except as otherwise set forth herein, this Consent Order is not and shall not be interpreted to be a permit or modification

of an existing permit under Federal, State or local law, and shall not be construed to waive or relieve the Commission of its obligations to comply in the future with any permit.

Executed in duplicate, with each part being an original.

KTT, LLC d/b/a Med Rid Medical Waste Disposal Services

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT



(Signature of Authorized Representative)

Lance R. LeFleur
Director

TIMM GLASS

(Printed Name)

Date Executed

OWNER

(Printed Title)

9/10/21

Date Signed

Attachment A

KTT, LLC Med Rid Medical Waste Disposal Services
 Medical Waste Transporter and Treatment Facility
 Sheffield, Colbert County, Alabama

Violation*	Number of Violations*	Seriousness of Violation*	Standard of Care*	History of Previous Violations*	
Acceptance of MW for transportation that is not properly sealed and labeled.	32	\$3,200	\$500	\$0	
Transport trailer not constructed of durable, easily cleanable materials	1	\$1,000	\$1,000	\$0	
MW transport vehicles displaying no ADEM permit number	2	\$200	\$200	\$0	
Failure to maintain/provide documentation of autoclave efficiency evaluation	1	\$500	\$500	\$0	
Failure to maintain/provide documentation for the autoclave	1	\$100	\$100	\$0	Total of Five Factors
TOTAL PER FACTOR		\$5,000	\$2,300	\$0	\$7,300

Adjustments to Amount of Initial Penalty*	
Mitigating Factors (-)	\$0
Ability to Pay (-)	\$0
Other Factors (+/-)	\$0
	\$0

Economic Benefit (+)*	\$0
Amount of Initial Penalty	\$7,300
Total Adjustments (+/-)	\$0
FINAL PENALTY	\$7,300

Footnotes

* See the "Findings" portion of the Order for a detailed description of each violation and the penalty factors.