

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

GET RID OF IT OF ARKANSAS, INC.
313 READY ROAD
EL DORADO, AR

LIS No. 17- 036
AFIN 70-00532

And

GET RID OF IT OF AMERICA CORP.
313 READY ROAD
EL DORADO, AR

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (Order) is issued pursuant to the authority of the Arkansas Solid Waste Management and Recycling Fund Act, Ark. Code Ann. § 8-6-601 *et seq.*, the Arkansas Solid Waste Management Act, Ark. Code Ann. § 8-6-201 *et seq.*, and the regulations promulgated thereunder including but not limited to, Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation No. 11, Regulation for Solid Waste Disposal Fees; Landfill Post-Closure Trust Fund; and Recycling Grants Program and APC&EC Regulation No. 14, Regulations and Administrative Procedures for the Waste Tire Program.

The issues herein having been settled by the agreement of Get Rid of It of Arkansas, Inc. (GRI Arkansas), and Get Rid of It of America Corp. (GRI America), collectively Respondents, and the Arkansas Department of Environmental Quality (ADEQ or Department), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

A. Findings of Fact related to Get Rid of It Arkansas and the Notice of Violation, LIS No. 15-130

1. Respondent GRI Arkansas operates a solid waste hauling company located at 313 Ready Road, El Dorado, Union County, Arkansas. GRI Arkansas's hauling business includes transportation of solid waste outside the state of Arkansas for disposal.

2. Ark. Code Ann. § 8-6-607 provides:

- (1) Each landfill permittee and each transporter shall submit to the Arkansas Department of Environmental Quality on or before January 15, April 15, July 15, and October 15 of each year a quarterly report which accurately states the total weight or volume of solid waste received at the landfill or transported out of state during the quarter just completed;
- (2) On or before January 15, April 15, July 15, and October 15 of each year, each landfill permittee and solid waste transporter shall pay to the department the full amount of such disposal fees due for the quarter just completed.

3. APC&EC Regulation 11.206(E) states:

Each landfill and each transporter shall submit to the Department on or before January 15, April 15, July 15, and October 15 of each year, a quarterly report which accurately states the total net weight or amounts of solid waste received at or transported to a landfill facility during the previous quarter.

4. APC&EC Regulation 11.207 states:

Fees imposed pursuant to the separate provisions of this subchapter shall be collected as follows:

(A) Fee Submission

On or before January 15, April 15, July 15, and October 15 of each year, each landfill facility permittee and each transporter shall pay to the Department the full fee amount owed for the preceding quarter. Payment shall be made by check or money order payable to the Department.

(B) Timely Payments

A landfill permittee or a transporter shall be deemed to have made a timely payment and shall avoid a late payment charge if the permittee or transporter complies with both of the following:

- (1) The payment enclosed is for the full amount owed for the preceding quarter and no further Departmental action is required for collection; and
- (2) The payment is received by the Department or is postmarked by the United States Postal Service on or before the final day on which the

payment is due, or the payee presents a receipt indicating the payment was mailed by registered or certified mail on or before the final day on which the payment is due.

5. APC&EC Regulation 11.208 states in part:

(A) Late Payment Charges

A late payment charge of ten percent (10%) of the quarterly fee amount will be added to the net amount due if full payment is not received by the Department within fifteen (15) calendar days after the due date. An additional five percent (5%) of that quarterly fee amount will be added to the net amount for each additional month or fraction thereof during which such failure continues past the first fifteen (15) calendar days, not to exceed a total of twenty-five percent (25%).

6. Ark. Code Ann. § 8-6-205(a)(1) provides:

(a) It shall be unlawful for any person:

(1) To violate any provision of this subchapter or any rule, regulation, or order of the Arkansas Pollution Control and Ecology Commission issued pursuant to this subchapter or of a permit issued under this subchapter by the Arkansas Department of Environmental Quality;

7. Ark. Code Ann. § 8-6-204(c) authorizes ADEQ to assess an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation for any violation of any provision of Ark. Code Ann. § 8-6-201 *et seq.*, Ark. Code Ann. § 8-6-601 *et seq.*, and APC&EC Regulation 11.

8. Pursuant to Ark. Code Ann. § 8-6-204(c), "Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment."

9. GRI Arkansas's Second Quarter 2015 Solid Waste Quarterly Report and associated disposal fees were due on or before July 15, 2015. On August 3, 2015, ADEQ received GRI Arkansas's Solid Waste Disposal Quarterly Report, which was eighteen (18) days late. This violates APC&EC Regulation 11.206(E), and is therefore a violation of Ark. Code Ann. § 8-6-607 (1). The amount of waste reported on the Report is five hundred fifty-two (552) tons and has an associated fee totaling Eight Hundred Twenty-Eight Dollars (\$828.00).

10. On August 3, 2015, ADEQ received GRI Arkansas's payment, in the form of a check, in the amount of Eight Hundred Twenty-Eight Dollars (\$828.00). This amount is the same amount as calculated on the Solid Waste Disposal Quarterly Report, and therefore did not contain the ten percent (10%) late fee of Eighty-Two Dollars and Eighty Cents (\$82.80) required pursuant to APC&EC Regulation 11.208(A). This payment was eighteen (18) days late. This is a violation of APC&EC Regulation 11.207(A), and therefore a violation of Ark. Code Ann. § 8-6-607(2).

11. APC&EC Regulation 11.204 (A) states:

Each landfill and each transporter, required under this regulation to pay disposal fees, shall provide a written Disposal Fee Plan to the Department that establishes an accurate method of quantifying the amount of solid waste received and a suitable means of calculating the amount of disposal fees payable to the Department pursuant to Ark. Code Ann. §§ 8-6-606 and 8-6-1003 *et seq.* and this regulation.

12. APC&EC Regulation 11.204 (E)(2) states:

Transporters

A Disposal Fee Plan shall be submitted to the Department no later than ninety (90) days following the effective date of this regulation.

13. ADEQ has notified GRI Arkansas on numerous occasions that the Disposal Fee Plan must be submitted. The latest of the notices was sent by email on March 10, 2015, pursuant to APC&EC Regulation 11.204(E)(2). The Disposal Fee Plan was due by September 10, 2015. GRI Arkansas has not submitted the required Disposal Fee Plan, which is a violation of APC&EC Regulation 11.204(A).

14. On November 3, 2015, a Notice of Violation (NOV) was executed by the Director and identified by LIS No. 15-130. Public Notice of NOV LIS No. 15-130 occurred on November 10, 2015. NOV LIS No. 15-130 addressed the violation identified above.

15. GRI Arkansas responded to NOV LIS No. 15-130 by paying the ten percent (10%) late fee of \$82.80 on November 22, 2015 and requesting a reduction in the Penalty on November 24, 2015.

16. GRI Arkansas did not submit a Disposal Fee Plan in response to NOV LIS No. 15-130.

B. Findings of Fact related to Get Rid of It America and its Waste Tire Transporter License Application

17. On June 9, 2016, GRI America submitted a Waste Tire Transporter License Application and an ADEQ Disclosure Statement. The Disclosure Statement identified Glenn E. Thweatt as the President, Secretary, Vice-President, and Treasurer of GRI America.

18. A "Disclosure Statement" for ADEQ is defined in Ark. Code Ann. § 8-1-106(a)(2). Part (D) of Ark. Code Ann. § 8-1-106(a)(2) requires the application to provide the following:

(D) A listing and explanation of any civil or criminal legal actions by government agencies involving environmental protection laws or regulations against the applicant and affiliated persons in the ten (10) years immediately preceding the filing of the application, including administrative enforcement actions resulting in the imposition of sanctions, permit or license revocations or denials issued by any state or federal authority, actions that have resulted in a finding or a settlement of a violation, and actions that are pending

19. The Director may deny the issuance or transfer of any permit, license, certification or operational authority if the Director finds, as described in APC&EC Regulation 8.204(D)(4), that the applicant or a person affiliated with the applicant has a documented history of violations.

20. The Director may deny the issuance or transfer of any permit, license, certification or operational authority if the Director finds, as described in APC&EC Regulation 8.204(D)(1), that the applicant has misrepresented or concealed any material fact in the application or disclosure statement, or in any other report or certification required herein.

21. GRI Arkansas is listed on the Arkansas Secretary of State's website as a for profit corporation that is in good standing. The officers are identified on the Arkansas Secretary of

State's website as follows: Glenn E. Thweatt, President; R. Scott Hafer, Controller; and John E. Pruniski III, Tax Preparer. John E. Pruniski III is also the Registered Agent for GRI Arkansas.

22. In the previous ten (10) years, GRI Arkansas and its officers have been parties to at least two additional administrative actions with the Department. Those actions are Consent Administrative Order (CAO), LIS No. 12-022, and Default Administrative Order (DAO), LIS No. 06-130. Mr. Thweatt signed a Consent Administrative Order (CAO), LIS No. 12-022, on January 21, 2012, as the president of GRI Arkansas. DAO LIS No. 06-130 was executed on February 28, 2007.

23. GRI America is listed on the Arkansas Secretary of State's website as a for profit corporation that is in good standing. The officers are identified on the Arkansas Secretary of State's website as follows: Glenn E. Thweatt, President; R. Scott Hafer, Controller; and John E. Pruniski III, Tax Preparer. John E. Pruniski III is also the Incorporator/Organizer and the Registered Agent for GRI America. These individuals serve in the same positions for both GRI Arkansas and GRI America according to the Secretary of State's website.

24. Mr. Thweatt signed the Disclosure Statement for ADEQ on June 9, 2016 pertaining to GRI America.

25. GRI America did not list its relationship through Mr. Thweatt to GRI Arkansas on its Waste Tire Transporter License Application or on its Disclosure Statement. Therefore, GRI America's Disclosure Statement did not comply with Ark. Code Ann. § 8-1-106(a)(2)(D).

C. Findings of Fact related to Get Rid of It America transporting waste tires without a Waste Tire Transporter License

26. GRI America owns and operates a business that is engaged in the activity of transporting waste tires for the Southeast Arkansas Regional Solid Waste Management Board (SARSWMB), the governing body of Southeast Arkansas Regional Solid Waste Management District. The

contract between GRI America and SARSWMB has an effective date of July 1, 2013, and a term of five (5) years with a five (5) year rollover option.

27. ADEQ, as administered by its Director, is the state agency charged with ensuring compliance with APC&EC Reg. 14.

28. APC&EC Reg.14.1103 states the following:

Waste Tire Transporters shall obtain a license and shall meet the requirements contained in this regulation for waste tire transporters.

29. SARSWMB indicated in records provided to the Department that GRI America performed and was paid for work as a Waste Tire Transporter pursuant to the contract referenced in paragraph 25. GRI America did not have a Waste Tire Transporter License on July 1, 2013, and has not held a license since that contract became effective. This is an ongoing violation of APC&EC Reg.14.1103.

30. On June 9, 2016, GRI America submitted to ADEQ a Waste Tire Transporter License Application and a Disclosure Statement. ADEQ has not issued a Waste Tire Transporter License due in part to deficiencies in GRI America's Waste Tire Transporter License Application and Disclosure Statement detailed above.

ORDER AND AGREEMENT

Wherefore, GRI Arkansas, GRI America, and ADEQ stipulate and agree as follows:

1. Within thirty (30) days of the effective date of this Order, GRI Arkansas shall submit to the ADEQ Office of Land Resources, Attn: Ms. Susan Speake, a Disposal Fee Plan and Narrative.

2. Within thirty (30) days of the effective date of this order, GRI America shall submit to the ADEQ Office of Land Resources, Attn: Ms. Susan Speake, a corrected Waste Tire Hauler Application and Disclosure Statement.

3. In compromise and full settlement of the civil penalties for violations specified in the Findings of Fact, Respondents agree to pay ADEQ within thirty (30) calendar days of the effective date of the Order, the total sum of THREE THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$3,750.00) as a voluntary civil penalty for the following.

- a. In compromise settlement of NOV LIS No. 15-130, Respondents agree to pay the sum of SEVEN HUNDRED FIFTY DOLLARS (\$750),
- b. For the violation enumerated in Paragraph 29, Respondents agree to pay the sum of THREE THOUSAND DOLLARS (\$3000)

Payment shall be made by a cashier's check drawn on an Arkansas bank payable to the Arkansas Department of Environmental Quality, and mailed to:

Arkansas Department of Environmental Quality
Fiscal Division
5301 Northshore Drive
North Little Rock, AR 72118

4. Failure to meet any requirement or deadline of this Order constitutes a violation of this Order. If Respondents should fail to meet any such requirements or deadlines, the Respondents consent and agree to pay on demand to ADEQ stipulated penalties according to the following schedule:

- a. First day through fourteenth day: \$100 per day
- b. Fifteenth day through the thirtieth day: \$500 per day
- c. Each day beyond the thirtieth day: \$1000 per day

These stipulated penalties for delay in performance shall be in addition to any other remedies or sanctions which may be available to ADEQ by reason of failure by Respondents to comply with the requirements of this Order.

5. If any event, including but not limited to an act of nature, occurs which causes or may

cause a delay in the achievement of compliance by Respondents with the requirements or deadlines of this Order, Respondents shall so notify ADEQ, in writing, as soon as reasonably possible after it is apparent that a delay will result, but in no case after the due dates specified in this Order. The notification shall describe in detail the anticipated length of the delay, the precise cause of the delay, the measures being taken and to be taken to correct or minimize the delay, and the timetable by which those measures will be implemented.

6. ADEQ may grant an extension of any provision of this Order, provided that Respondents request such an extension in writing and provided that the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of Respondents. The time for performance may be extended for a reasonable period but in no event longer than the period of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances beyond the control of and without the fault of Respondents and the length of the delay attributable to such circumstances shall rest with Respondents. Failure to notify the ADEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

7. All requirements by the Order and Agreement are subject to approval by ADEQ. Unless otherwise specified herein, in the event of any deficiencies, Respondents shall, within the timeframe specified by ADEQ, submit any additional information or changes requested, or take additional actions specified by ADEQ to correct any such deficiencies. Failure to adequately respond to such Notice of Deficiency within the timeframe specified in writing by ADEQ constitutes a failure to meet the requirements established by this Order.

8. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Regulation No. 8 and shall not be effective until thirty (30) calendar

days after public notice is given. ADEQ retains the right to rescind this Order based upon the comments received within the thirty-day public comment period. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately. The publication of this Order shall occur on or about the 10th or 25th day of the month following the date this Order is executed. As provided by APC&EC Regulation No. 8, this matter is subject to being reopened upon Commission initiative or in the event a petition to set aside this Order is granted by the Commission.

9. Nothing in this Order shall be construed as a waiver by ADEQ of its enforcement authority over alleged violations not specifically addressed herein. Also, this Order neither exonerates Respondents from any past, present, or future conduct that is not expressly addressed herein, nor does it relieve Respondents of their responsibilities for obtaining any necessary permits.

10. By virtue of the signature appearing below, the individual represents that he or she is an Officer of the Respondent indicated (GRI Arkansas or GRI America), being duly authorized to execute and bind that particular Respondent to the terms contained herein. Execution of this CAO by an individual other than an Officer of the Respondent indicated shall be accompanied by a resolution granting signature authority to that individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 10 DAY OF MAY, 2017.

Becky W. Keogh
BECKY W. KEOGH, DIRECTOR
ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

APPROVED AS TO FORM AND CONTENT:

Get Rid of It of Arkansas, Inc.

BY: [Signature]

(Signature)

GLENN E. THWENT
(Typed or printed name)

TITLE: PRESIDENT

DATE: MAY 8, 2017

APPROVED AS TO FORM AND CONTENT:

Get Rid of It of America Corp.

BY: [Signature]

(Signature)

GLENN E. THWENT
(Typed or printed name)

TITLE: PRESIDENT

DATE: MAY 8, 2017