

**STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION**

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<b>IN THE MATTER OF:</b>	)	<b>DIVISION OF SOLID WASTE</b>
	)	<b>MANAGEMENT</b>
<b>TRADEBE TREATMENT AND</b>	)	
<b>RECYCLING OF TENNESSEE, LLC,</b>	)	<b>CASE NO. HWM 24-0014</b>
<b>TND 00-077-2186</b>	)	
	)	
<b>RESPONDENT.</b>	)	

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**DIRECTOR'S ORDER AND ASSESSMENT**

NOW COMES Lisa A. Hughey, Director of the Tennessee Division of Solid Waste Management, and states:

**PARTIES**

**I.**

David Salyers, P.E., is the duly appointed Commissioner of the Tennessee Department of Environment and Conservation (the Department) and is charged with the responsibility for administering and enforcing the Tennessee Hazardous Waste Management Act, Tenn. Code Ann. §§ 68-212-101 to -121 ("Act"). Lisa A. Hughey, is the duly appointed Director of the Tennessee Division of Solid Waste Management ("Division"). She has received written delegation from the Commissioner to administer and enforce the Acts.

**II.**

Tradebe Treatment and Recycling of Tennessee, LLC ("Respondent") is a foreign limited liability corporation created in the State of Delaware and is authorized to conduct business in the State of Tennessee. Its agent for service of process is Corporation Service Company, 2908 Poston Avenue, Nashville, Tennessee 37203-1312.

## **JURISDICTION**

### **III.**

When the Commissioner finds that provisions of the Acts are not being carried out, the Commissioner is authorized to issue an order for correction to the responsible person. Tenn. Code Ann. § 68-212-111. Further, the Commissioner has the authority to assess damages and civil penalties against any person who violates any provision of the Act, any order of the Board or Commissioner, the terms or conditions of any permit issued, or any rule, regulation or standard adopted pursuant to the Act. Tenn. Code Ann. § 68-212-114. Rules governing hazardous waste management have been promulgated. Tenn. Code Ann. § 68-212-107; Tenn. Comp. R. & Regs. 0400-12-01 and -02 (“Rules”).

### **IV.**

The Respondent is a “person.” Tenn. Code Ann. § 68-212-104(14).

## **FACTS**

### **V.**

The Respondent operates a commercial hazardous waste treatment and storage facility (“facility”) located at 5485 Victory Lane, Millington, Shelby County, Tennessee. The Respondent is a Large Quantity Generator of hazardous waste, a Small Quantity Handler of universal waste, and a generator of used oil. The facility has an Environmental Protection Agency (EPA) installation identification number of TND 00-077-2186 and is permitted by the Department to conduct certain hazardous waste treatment and storage activities. The permit identification number for this facility is TNHW-188 (“Permit”). This permit replaced the previously held permit TNHW-103 and went into effect on September 27, 2022.

## **VI.**

The Division issued civil enforcement orders with penalties to the Respondent in the years 2016, 2017, 2019, 2021, and 2023. In the year 2022, the Respondent was issued a civil enforcement order with penalty from the EPA.

## **VII.**

On March 27, 2024, the Division conducted a Compliance Evaluation Inspection (CEI) at the facility. The inspection consisted of a facility walk-through and a review of the facility's hazardous waste records. In Unit 207, the Division inspector observed one 5-gallon cardboard box container of hazardous waste that was wet and not in good condition. The facility personnel repackaged the container during the CEI.

## **VIII.**

In the area of the hazardous waste storage tanks and related equipment, the Division inspector observed several equipment Leak Detection and Repair (LDAR) emission monitoring tags on the floor inside the secondary containment. The tags were replaced during the CEI.

## **IX.**

Upon reviewing the Respondent's files and records related to the management of hazardous waste, the Division inspector observed the following:

- The Respondent did not have a current copy of the facility operating permit on site. Specifically, the permit copy on site did not have the latest update, a January 29, 2024 permit modification.
- The Respondent failed to conduct weekly inspections at least every seven days on two occasions.

- The Respondent failed to maintain weekly inspection logs for the month of October 2023 and the first week of November 2023.
- The Respondent failed to maintain daily inspection logs for 22 days between February 2023 and February 2024.
- The Respondent failed to maintain LDAR air emission monitoring logs for the entire year of 2023, the month of January 2024, and for 15 days in February 2024.
- The Respondent failed to file exception reports with the Commissioner on 13 occasions of not having received the signed return manifest within 45 days of shipment.
- The Respondent failed to sign the manifests accompanying rejected shipments on 16 occasions.

#### **X.**

In Unit 204, the Division inspector observed 43 containers of hazardous wastes restricted from land disposal that had been stored onsite by the Respondent for more than one year. At the time of the inspection, the Respondent was actively working to ship the containers for disposal, as required by the 2023 civil order (Case #HWM 23-0008) and were negotiating to settle the civil order.

#### **XI.**

In total, the Division inspector observed nine violations during the inspection conducted on March 27, 2024. On May 10, 2024, the Division issued a Notice of Violation (NOV) to the Respondent detailing the observations and the violations. The nine violations observed:

1. Failure to transfer hazardous waste from a container in poor condition to a container that is in good condition.

2. Failure to ensure all equipment subject to LDAR air emission standards is uniquely marked and tagged.
3. Failure to maintain onsite a current copy of the operating permit including all amendments, revisions, and modifications.
4. Failure to conduct weekly inspections at least once every seven days.
5. Failure to record and keep inspections in an inspection log or summary at the facility.
6. Failure to maintain LDAR air emissions monitoring records at the facility required to demonstrate compliance.
7. Storage of restricted waste for longer than one year.
8. Failure to file exception reports with the Commissioner on 13 occasions of not having received the signed return manifest within 45 days of shipment.
9. Failure to sign the manifests accompanying rejected shipments on 16 occasions.

## **XII.**

On May 1, 2024, the Respondent notified the Division via email that the remaining containers of restricted waste that had been stored for over one year had been shipped offsite for disposal. The email included copies of the associated manifests.

## **XIII.**

On June 12, 2024, the Division conducted a Follow-Up Inspection (FUI) at the facility. The inspection consisted of a facility walk-through and a review of the facility's hazardous waste records. The Division inspector observed that the onsite operating permit was up to date and current, that inspection records were complete for the months of April, May, and June of 2024, and that LDAR air emission records for May and June of 2024 were complete. No additional violations were observed.

**XIV.**

On July 15, 2024, the Division issued a FUI report to the Respondent detailing the findings. The report noted that violations #1 and #2 were resolved during the March 27, 2024 CEI and that violation #7 was resolved on April 29, 2024 and observed on May 1, 2024 via email. The report further noted that the facility's copy of the permit was reviewed and was observed to be complete resolving violation #3, April, May and June 2024 inspection logs were reviewed and observed to be complete resolving violations #4 and #5, and LDAR emission monitoring logs for May and June 2024 were reviewed which resolved violation #6.

**XV.**

On July 11, 2024, the Division sent the Respondent a letter offering the opportunity to schedule a show cause meeting. While the Respondent initially accepted the invitation on July 16, 2024, the Respondent then declined the invitation via email on August 7, 2024. The Division sent the Respondent a letter dated August 26, 2024, stating that the Division would proceed with formal enforcement action.

**XVI.**

During the investigation of the Respondent's facility, the Division has incurred damages in the amount of \$1,800.00.

**VIOLATIONS**

**XVII.**

The Respondent failed to transfer hazardous waste from a container in poor condition to a container that is in good condition, as required by Permit TNHW-188 III.B.

**XVIII.**

The Respondent failed to ensure that all equipment subject to LDAR air emissions monitoring was uniquely marked and tagged, as required by Permit TNHW-188 II.Q.3(b).

**XIX.**

The Respondent failed to maintain a copy of the permit at the facility that includes all amendments, revisions, and modifications, as required by Permit TNHW-188 I.F.1.

**XX.**

The Respondent failed to inspect weekly (at least every seven days), as required by Permit TNHW-188 II.E.1.

**XXI.**

The Respondent failed to record and keep inspections in a log or summary at the facility, as required by Permit TNHW-188 III.E.3.

**XXII.**

The Respondent failed to maintain LDAR emission records at the facility to demonstrate compliance, as required by Permit TNHW-188 II.R.11.

**XXIII.**

The Respondent failed to submit exception reports to the Commissioner as required by Rule 0400-12-01-.03(5)(c)1(ii)&(iii).

**XXIV.**

The Respondent failed to sign hazardous waste manifests accompanying rejected shipments, as required by Rule 0400-12-01-.03(3)(d)6(i).

**XXV.**

The Respondent failed to comply with Tennessee Code Annotated section 68-212-105(4) by violating the aforementioned Rules.

Section 68-212-105(4) states:

It is unlawful to:

- (4) Store, containerize, label, transport, treat or dispose of hazardous waste, or fail to provide information in violation of the rules, regulations, or orders of the Commissioner or Board, or in such a manner as to create a public nuisance or a hazard to the public health.

**ORDER AND ASSESSMENT**

**XXVI.**

Under the authority vested by sections 68-212-111 and 68-212-114 of the Acts, I, Lisa A. Hughey, issue the following Order and Assessment to the Respondent:

1. The Respondent is hereby assessed DAMAGES in the amount of \$1,800.00 to be paid to the State on or before the 31st day after receipt of this Order and Assessment.
2. The Respondent is hereby assessed a CIVIL PENALTY in the amount of \$36,600.00 to be paid to the State on or before the 31st day after receipt of this Order and Assessment.
3. Payment of the DAMAGES AND CIVIL PENALTY totaling **\$38,400.00** should reference Case No. HWM 24-0014, be made payable to "Treasurer, State of Tennessee," and sent to the Division of Fiscal Services – Consolidated Fee Section, Davy Crockett Tower, 500 James Robertson Parkway, 6th Floor, Nashville, Tennessee 37243.



### **RESERVATION OF RIGHTS**

In issuing this Order and Assessment, the Director does not implicitly or expressly waive any provision of the Acts or regulations promulgated thereunder or the authority to assess costs, civil penalties and/or damages incurred by the State against the Respondent(s). The Department expressly reserves all rights it has at law and in equity to order further corrective action, assess civil penalties and/or damages, and to pursue further enforcement action including, but not limited to, monetary and injunctive relief. Compliance with this Order will be considered as a mitigating factor in determining the need for future enforcement action(s).

### **NOTICE OF RIGHTS**

The Respondent(s) may appeal this Order and Assessment. Tenn. Code Ann. §§ 68-212-113 and 114. To do so, a written petition setting forth the reasons for requesting a hearing must be received by the Commissioner within 30 days of the date the Respondent(s) received this Order and Assessment, or this Order and Assessment will become final.

If an appeal is filed, an initial hearing of this matter will be conducted by an Administrative Law Judge (ALJ) as a contested case hearing pursuant to the provisions of Tenn. Code Ann. § 68-212-113; Tenn. Code Ann. § 4-5-301 to -325 (the Uniform Administrative Procedures Act); Tenn. Comp. R. & Regs. 1360-04-01 (the Department of State's Uniform Rules of Procedure for Hearing Contested Cases Before State Administrative Agencies). Such hearings are legal proceedings in the nature of a trial. Individual Respondents may represent themselves or be represented by an attorney licensed to practice law in Tennessee. Artificial Respondents (corporations, limited partnerships, limited liability companies, etc.) cannot engage in the practice of law and therefore may only pursue an appeal through an attorney licensed to practice law in Tennessee. Low-income

individuals may be eligible for representation at reduced or no cost through a local bar association or legal aid organization.

At the conclusion of any initial hearing, the ALJ has the authority to affirm, modify, or deny the Order and Assessment. Furthermore, the ALJ on behalf of the Board has the authority to assess additional damages incurred by the Department including, but not limited to, all docketing expenses associated with the setting of the matter for a hearing and the hourly fees incurred due to the presence of the ALJ and a court reporter.

Any petition for review must be directed to the Commissioner of the Department of Environment and Conservation, c/o Jenny L. Howard, General Counsel, Department of Environment and Conservation, Davy Crockett Tower, 500 James Robertson Parkway, 2<sup>nd</sup> Floor, Nashville, Tennessee 37243. The petition may be mailed or delivered to this address, or it may be sent to [TDEC.Appeals@tn.gov](mailto:TDEC.Appeals@tn.gov). Payments of the civil penalty and/or damages shall be made payable to the "Treasurer, State of Tennessee" and sent to the Division of Fiscal Services - Consolidated Fees Section, Tennessee Department of Environment and Conservation, Davy Crockett Tower, 500 James Robertson Parkway, 6<sup>th</sup> Floor, Nashville, Tennessee 37243. Technical questions and other correspondence involving compliance issues should be sent to Christopher Lagan, State of Tennessee, Division of Solid and Hazardous Waste Management, Davy Crockett Tower, 500 James Robertson Parkway, 7<sup>th</sup> Floor, Nashville, TN 37243. Attorneys should contact the undersigned counsel of record. **The case number, HWM 24-0014, should be written on all correspondence regarding this matter.**

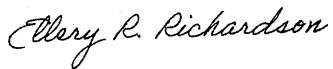
Issued by the Director of the Division of Solid Waste Management, Tennessee Department  
of Environment and Conservation, on this 15<sup>th</sup> day of November, 2024.



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Lisa A. Hughey  
Director, Division of Solid Waste Management  
TN Department of Environment and Conservation

Reviewed by:



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