

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT, DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Get Rid of It of America Corp.
313 Ready Road
El Dorado, Arkansas 71730

LIS No. 23- 024
Permit No. 0967-SH
AFIN 70-00532

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (CAO) is issued pursuant to the authority of the Arkansas Solid Waste Management Act, Ark. Code Ann. § 8-6-201 *et seq.*, the Solid Waste Management and Recycling Fund Act, Ark. Code Ann. § 8-6-601 *et seq.*, and the Arkansas Pollution Control and Ecology Commission (APC&EC) Rules 7, 8, and 11.

The issues herein having been settled by the agreement of Get Rid of It of America Corp. (Respondent) and the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

1. DEQ is responsible for the collection of landfill disposal fees pursuant to the Solid Waste Management and Recycling Fund Act (the Act), Ark. Code Ann. § 8-6-601, *et seq.* and APC&EC Rule 11.
2. DEQ, as administered by its Chief Administrator, is the state agency charged with ensuring compliance with the Act.
4. Ark. Code Ann. § 8-6-603 defines "solid waste" with the following:

(6)(A) "Solid waste" means any garbage or refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, or contained gaseous

material resulting from industrial, commercial, mining, and agricultural operations, and from community activities.

5. Ark. Code Ann. § 8-6-606 states in part:

(b)(1) Except as provided in subsections (a) and (c) of this section, for all solid waste generated and transported within the state but to be disposed of outside the state, there is imposed on each such solid waste transporter a solid waste transportation fee of twenty-five cents (25¢) for each uncompacted cubic yard of solid waste and forty-five cents (45¢) for each compacted cubic yard of solid waste transported.

6. Ark. Code Ann. § 8-6-607 states in part:

(a) On or before January 15, April 15, July 15, and October 15 of each year, each landfill permittee and each solid waste transporter shall:

(1) Submit to the Division of Environmental Quality a quarterly report that accurately states the total weight or volume of solid waste received at the landfill or transported out of state during the quarter just completed; and

(2) Pay to the division the full amount of disposal and transportation fees imposed and collected under this subchapter for the preceding quarter.

7. APC&EC Rule 11.208 states in part:

(A) 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 Division 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%).

8. Pursuant to Ark. Code Ann. § 8-6-608, failure of the permittee or solid waste transporter to pay the fees assessed by DEQ provides grounds for administrative or civil enforcement action.

Sanctions may include civil penalties as provided in the Arkansas Solid Waste Management Act, § 8-6-201 *et seq.*, or revocation of the solid waste disposal or transporter permit.

9. Respondent owns a waste hauling operation located at 313 Ready Road, El Dorado, Union County, Arkansas.

10. Respondent is engaged in the transportation of solid waste generated within the Southeast and Southwest Regional Solid Waste Management Districts for disposal outside the State of Arkansas.

11. Respondent failed to submit a solid waste quarterly report and pay the applicable disposal fee for the Third Quarter of 2021. The report and payment were due on October 15, 2021. Failure to submit the report and pay the fee violates Ark. Code Ann. § 8-6-607(a)(1) and (2) and APC&EC Rule 11.206(E) and 11.207(A).

a. The solid waste disposal fee for the Third Quarter of 2021 was not paid by October 30, 2021. A ten percent (10%) late charge was added to the net amount payable in accordance with APC&EC Rule 11.208(A).

b. The solid waste disposal fee for the Third Quarter of 2021 was not paid by November 15, 2021. An additional five percent (5%) late charge was added to the net amount payable, for a total of fifteen percent (15%), in accordance with APC&EC Rule 11.208(A).

12. In a letter dated November 19, 2021, DEQ requested the submission of the solid waste disposal report and fee, as well as a late fee for the Third Quarter of 2021. Respondent failed to submit the disposal report, fee, and late fee.

13. The solid waste disposal fee for the Third Quarter of 2021 had not been paid by December 15, 2021. An additional five percent (5%) late charge was added to the net amount payable, for a total of twenty percent (20%), in accordance with APC&EC Rule 11.208(A).

14. In a letter dated January 7, 2022, DEQ again requested the submission of the solid waste disposal report, disposal fee, and late fee for the Third Quarter of 2021. Respondent failed to submit the disposal report, fee, and late fee.

15. The solid waste disposal fee for the Third Quarter of 2021 had not been paid by January 15, 2022. An additional five percent (5%) late charge was added to the net amount payable, for a total of twenty-five percent (25%), in accordance with APC&EC Rule 11.208(A).

16. Respondent failed to submit a solid waste quarterly report and pay the applicable disposal fee for the Fourth Quarter of 2021. The report and payment were due on January 15, 2022. Failure to submit the report and pay the fee violates Ark. Code Ann. § 8-6-607(a)(1) and (2), and APC&EC Rule 11.206(E) and 11.207(A).

a. The solid waste disposal fee for the Fourth Quarter of 2021 was not paid by January 30, 2022. A ten percent (10%) late charge was added to the net amount payable in accordance with APC&EC Rule 11.208(A).

b. The solid waste disposal fee for the Fourth Quarter of 2021 was not paid by February 15, 2022. An additional five percent (5%) late charge was added to the net amount payable, for a total of fifteen percent (15%), in accordance with APC&EC Rule 11.208(A).

17. In a letter dated February 22, 2022, DEQ requested the submission of the solid waste disposal report, disposal fee, and late fee for the Third and Fourth Quarters of 2021. Respondent failed to submit the reports, fees, and late fees.

18. The solid waste disposal fee for the Fourth Quarter of 2021 was not paid by March 15, 2022. An additional five percent (5%) late charge was added to the net amount payable, for a total of twenty percent (20%), in accordance with APC&EC Rule 11.208(A).

19. In an email dated March 15, 2022, DEQ again requested the submission of the solid waste disposal report, disposal fee, and late fee for the Third and Fourth Quarters of 2021. Respondent failed to submit the reports, fees, and late fees.

20. The solid waste disposal fee for the Fourth Quarter of 2021 was not paid by April 15, 2022. An additional five percent (5%) late charge was added to the net amount payable, for a total of twenty-five percent (25%), in accordance with APC&EC Rule 11.208(A).

21. Respondent failed to submit a solid waste quarterly report and pay the applicable disposal fee for the First Quarter of 2022. The report and payment were due on April 15, 2022. Failure to submit the report and pay the fee violates Ark. Code Ann. § 8-6-607(a)(1) and (2), and APC&EC Rule 11.206(E) and 11.207(A).

- a. The solid waste disposal fee for the First Quarter of 2022 was not paid by April 30, 2022. A ten percent (10%) late charge was added to the net amount payable in accordance with APC&EC Rule 11.208(A).
- b. The solid waste disposal fee for the First Quarter of 2022 was not paid by May 15, 2022. An additional five percent (5%) late charge was added to the net amount payable, for a total of fifteen percent (15%), in accordance with APC&EC Rule 11.208(A).
- c. The solid waste disposal fee for the First Quarter of 2022 was not paid by June 15, 2022. An additional five percent (5%) late charge was added to the net amount payable, for a total of twenty percent (20%), in accordance with APC&EC Rule 11.208(A).
- d. The solid waste disposal fee for the First Quarter of 2022 was not paid by July 15, 2022. An additional five percent (5%) late charge was added to the net amount payable, for a total of twenty-five percent (25%), in accordance with APC&EC Rule 11.208(A).

22. Respondent failed to submit a solid waste quarterly report and pay the applicable disposal fee for the Second Quarter of 2022. The report and payment were due on July 15, 2022. Failure to submit the report and pay the fee violates Ark. Code Ann. § 8-6-607(a)(1) and (2), and APC&EC Rule 11.206(E) and 11.207(A).

23. The solid waste disposal fee for the Second Quarter of 2022 was not paid by July 30, 2022. A ten percent (10%) late charge was added to the net amount payable in accordance with APC&EC Rule 11.208(A).

24. The solid waste disposal fee for the Second Quarter of 2022 was not paid by August 15, 2022. An additional five percent (5%) late charge was added to the net amount payable, for a total of fifteen percent (15%), in accordance with APC&EC Rule 11.208(A).

25. On October 17, 2022, Respondent submitted the solid waste quarterly report and paid the applicable disposal fee and late fee for the Third Quarter of 2021, Fourth Quarter of 2021, First Quarter of 2022, and Second Quarter of 2022.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall henceforth submit all solid waste quarterly reports and pay all applicable disposal fees in accordance with Ark. Code Ann. § 8-6-607.

2. In compromise and full settlement for instances of noncompliance specified in the Findings of Fact, Respondent agrees to pay the sum of Two Thousand Two Hundred Dollars (\$2,200.00). Payment is due within thirty (30) calendar days of the effective date of this CAO.

Such payment of the penalty shall be made payable to DEQ and mailed to the attention of:

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

In the event that Respondent fails to pay the civil penalties within the prescribed time, DEQ shall be entitled to attorneys' fees and costs associated with collection as well as all other lawful fees and penalties.

3. All requirements of this CAO are subject to approval by DEQ. In the event of any deficiencies, Respondent shall submit any additional information or changes requested, or take additional actions specified by DEQ to correct any such deficiencies within the timeframe specified by DEQ. Failure to respond adequately in writing within the timeframe specified by DEQ constitutes a failure to meet the requirements established by this CAO.

4. If Respondent fails to meet any requirement of this CAO within the deadline established by the CAO, DEQ may assess stipulated penalties for the delay in the following amounts:

- a. First day through the fourteenth day: \$100.00 per day
- b. Fifteenth day through the thirtieth day: \$500.00 per day
- c. Each day beyond the thirtieth day: \$1,000.00 per day

These stipulated penalties for delay in performance shall be in addition to any other remedies or sanctions that may be available to DEQ by reason of Respondent's failure to comply with this CAO.

5. Respondent shall notify DEQ in writing within five (5) calendar days of knowledge of any delay or potential delay in complying with any provision of this CAO, specifying in detail the anticipated length of delay, the precise cause of delay, and the measures being taken to correct and minimize the delay.

6. DEQ may grant an extension of any provision of this CAO, provided that Respondent requests 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 Respondent. 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, Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Failure to notify DEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

7. Nothing contained in this CAO shall be construed as a waiver by DEQ of its authority over alleged violations not specifically addressed herein. This CAO does not purport in any way to relieve Respondent of its responsibilities for obtaining any necessary permits or licenses, nor does it relieve Respondent of any other obligations imposed by any local, state, or federal laws. This CAO does not exonerate any past, present, or future conduct not expressly addressed herein.

8. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule 8 and shall not be effective until thirty (30) calendar days after public notice is given. DEQ retains the right to rescind this CAO based upon the comments received within the thirty (30) day public comment period.

9. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately. The publication of this CAO shall occur on or about the 10th or 25th day of the month following the date this CAO is executed. As provided by APC&EC Rule 8, this matter is subject to being reopened upon APC&EC initiative or in the event a petition to set aside this CAO is granted by the APC&EC.

10. By virtue of the signature appearing below, the individual represents that he or she is an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than an Officer of Respondent

shall be accompanied by a resolution granting signature authority to said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 14th DAY OF MARCH, 2023.



CALEB J. OSBORNE
DIVISION OF ENVIRONMENTAL QUALITY, DIRECTOR
CHIEF ADMINISTRATOR, ENVIRONMENT
ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:
Get Rid of It America Corp.

BY:

Signature R. Scott HAFER

Print Name R. SCOTT HAFER

Title CONTROLLER

Date 3/8/23