



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204

(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

Respondent Name: Super Mario Innovations LLC

Case Number: 2023-29175-A

AGREED ORDER

Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order. Pursuant to IC 13-30-3-3, entry into the terms of this Agreed Order does not constitute an admission of any violation contained herein. Respondent's entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondent may have in any future administrative or judicial proceeding, except a proceeding to enforce this order.

I. FINDINGS OF FACT

1. Complainant is the Commissioner ("Complainant") of the Indiana Department of Environmental Management ("IDEM"), a department of the State of Indiana created by Indiana Code ("IC") 13-13-1-1.
2. Respondent is Super Mario Innovations LLC ("Respondent"), who was contracted to perform work at 5301 East Lincoln Highway in Hobart, Lake County, Indiana ("Site").
3. IDEM has jurisdiction over the parties and the subject matter of this action.
4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation ("NOV") via certified and electronic mail to:

<p>Maria E Valtierra, CEO Super Mario Innovations LLC 6832 Linden Drive Crown Point, IN 46307</p>	<p>Mario Valtierra, Registered Agent Super Mario Innovations LLC 6832 Linden Drive Crown Point, IN 46307 Mr.Valtierra@gmail.com</p>
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5. At the time of an inspection conducted on January 23, 2023, the following violation was in existence or observed at the Site by a representative of IDEM.
 - a. Pursuant to 326 IAC 4-1, open burning is prohibited unless exempted or an approval pursuant to 326 IAC 4-1-4.1 is obtained.

On January 23, 2023, Respondent conducted open burning of unapproved materials for disposal purposes at the Site, in violation of 326 IAC 4-1.

6. In recognition of the settlement reached, Respondent waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective ("Effective Date") when it is adopted via signature by Complainant or Complainant's delegate, and the adopted Agreed Order has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date. This offer to settle the allegations contained in this Agreed Order does not bind or obligate the parties of this enforcement action if the Agreed Order is not adopted.
2. Respondent is assessed a civil penalty of Five Hundred Dollars (\$500.00). Respondent shall pay said penalty amount no later than fifteen (15) days after the Effective Date ("Due Date"). In the event that the civil penalty is not paid by the Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1-101.
3. In the event the terms and conditions of this Agreed Order are violated, Complainant may seek additional relief.
4. Civil penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:

Indiana Department of Environmental Management
Accounts Receivable
IGCN, Room 1340
100 North Senate Avenue
Indianapolis, IN 46204
5. This Agreed Order shall apply to and be binding upon Respondent and its successors and assigns. Respondent's signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent. No change in ownership, corporate, or partnership status of Respondent shall in any way alter its status or responsibilities under this Agreed Order.
6. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.

7. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of its obligation to comply with the requirements of its applicable permit or any applicable Federal or State law or regulation.
8. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation.
9. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to, seek additional civil penalties for the same violation specified in the NOV.
10. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the United States Environmental Protection Agency ("EPA") or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the EPA or any other agency or entity.
11. Respondent warrants, at the time of its entry into this Agreed Order, that it is in compliance with the requirements of environmental rule 326 IAC 4-1.
12. The parties were free to consult with their respective counsel regarding entry into this Agreed Order to the extent each deemed necessary.

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY

TECHNICAL RECOMMENDATION:
Department of Environmental
Management



By: _____
Jennifer Bailey,
Senior Environmental Manager
Enforcement Section
Office of Air Quality

Date: February 7, 2023

RESPONDENT:
Super Mario Innovations LLC

By: _____

Printed: _____

Title: _____

Date: _____

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT THIS

_____ DAY OF _____, 20_____ .

For the Commissioner:

By: _____
Matthew Stuckey, Assistant
Commissioner
Office of Air Quality
Indiana Department of Environmental
Management

* In the event that Respondent does not accept the settlement offer contained in this Agreed Order, IDEM notes that this document is a qualified offer of settlement, and

therefore Rule 408 of Indiana Rules of Evidence applies to this document, rendering it inadmissible.