



## 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](http://www.idem.IN.gov)

Eric J. Holcomb  
*Governor*

Brian C. Rockensuess  
*Commissioner*

November 1, 2023

### **VIA ELECTRONIC MAIL:**

Michael Beemsterboer, President  
South Shore Slag LLC  
3411 Sheffield Ave.  
Hammond, IN 46327  
[Mike@beemcompanies.com](mailto:Mike@beemcompanies.com)

Re: Commissioner of the Department of  
Environmental Management  
v.  
South Shore Slag LLC  
Plant ID No. 089-00133  
Gary, Lake County  
Case Nos. 2020-27322-A  
2021-27955-A

**Qualified offer of settlement: inadmissible pursuant to Rule 408 of the Ind. Rules of Evidence. IDEM asserts that any offer to compromise a claim or any acceptance of such offer does not bind or obligate the parties of this enforcement action in the absence of a final order of the agency.**

Dear Mr. Beemsterboer:

Enclosed please find the proposed Agreed Order that provides for the actions required to correct the violations outlined in IDEM's Notice of Violation issued to you in the above referenced case dated March 14, 2023. The civil penalty noted in the proposed Agreed Order is for settlement purposes only. Entering into and timely compliance with the enclosed Agreed Order will constitute resolution of this case.

If you are willing to resolve this matter as provided for in the enclosed Agreed Order, sign and return it to me at the address specified in the Agreed Order within fifteen (15) days of your receipt of the Agreed Order. The individual signing the enclosed Agreed Order should be the President of the company or other authorized signatory. If you would like to schedule a meeting to discuss the Agreed Order in more detail, please contact me as soon as possible at (317) 234-3996 or [jbailey2@idem.in.gov](mailto:jbailey2@idem.in.gov).

If this matter cannot be resolved through the enclosed Agreed Order or a mutually acceptable amended Agreed Order, a Commissioner's Order may be issued. It should be understood that the civil penalty for purposes of a Commissioner's Order

will be assessed pursuant to IDEM's Civil Penalty Policy adopted as a Nonrule Policy Document on April 5, 1999.

Thank you for your cooperation in this matter.

Sincerely,



Jennifer Bailey  
Senior Case Manager  
Enforcement Section  
Office of Air Quality

Enclosure

cc: David Malecha, South Shore Slag LLC (malecha@beemcompanies.com)  
Jennifer Bailey, Compliance and Enforcement Branch, OAQ  
Kevin Davis, Compliance and Enforcement Branch, OAQ  
Randy Hoffman, Compliance and Enforcement Branch, OAQ



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STATE OF INDIANA	)	SS:	BEFORE THE INDIANA DEPARTMENT OF
	)		
COUNTY OF MARION	)		ENVIRONMENTAL MANAGEMENT
	)		
COMMISSIONER OF THE DEPARTMENT	)		
OF ENVIRONMENTAL MANAGEMENT,	)		
	)		
	)	Complainant,	
	)		
	)	v.	Case Nos. 2020-27322-A
	)		2021-27955-A
SOUTH SHORE SLAG LLC,	)		
	)		
	)	Respondent.	

**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 Indiana Code ("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 IC 13-13-1-1.
2. Respondent is South Shore Slag LLC ("Respondent"), which owns and operates the stationary slag crushing, screening, and conveying operation with Plant ID No. 089-00133, located at 1 North Buchanan Street, in Gary, 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") in conjunction with this Agreed Order via Electronic Mail to:

Michael Beemsterboer, President  
South Shore Slag LLC  
3411 Sheffield Ave.  
Hammond, IN 46327  
mike@beemcompanies.com

Alan Beemsterboer, Registered Agent  
South Shore Slag LLC  
3411 Sheffield Ave.  
Hammond, IN 46327  
alan@beemcompanies.com

5. During an investigation conducted by a representative of IDEM, the following violations were found:

Based on the Enforcement Action Letter issued to Respondent on March 16, 2020, case number 2020-27322-A contains the following violations:

- a. Pursuant to 326 IAC 2-7-10.5(a)(1), an operator or owner of a Part 70 source proposing to construct new emission units shall submit a request for a modification approval in accordance with this section.

Respondent failed to obtain a modification approval prior to the construction of seven (7) magnets and Fines Screen 3, in violation of 326 IAC 2-7-10.5(a)(1).

- b. Pursuant to 326 IAC 2-7-12, an owner or operator of a Part 70 source shall obtain a permit modification prior to operation of new emission units.

Respondent failed to obtain a permit modification prior to the operation of seven (7) magnets and Fines Screen 3, in violation of 326 IAC 2-7-12.

Based on the Enforcement Action Letter issued to Respondent on July 13, 2021, case number 2021-27955-A contains the following violation:

- c. Pursuant to 40 CFR 63.6600(d), Respondent shall limit concentration of carbon monoxide ("CO") in the stationary reciprocating internal combustion engine (RICE) exhaust to 23 parts per million ("ppm") or less at fifteen percent ("15%") O<sub>2</sub>.

During compliance testing conducted on September 23, 2020, Respondent demonstrated CO emissions of 277ppm at 15% O<sub>2</sub> for Engine-01, in violation of 40 CFR 63.6600(d).

6. Respondent was issued Significant Source Modification No. 089-42692-00133 on September 24, 2020 to permit the previously unpermitted equipment.
7. The source conducted a retest to comply with the CO limit on March 10, 2021. The results that were received on April 24, 2021 indicated compliance with the CO limit.
8. Orders of the Commissioner are subject to administrative review by the Office of Environmental Adjudication under IC 4-21.5; however, in recognition of the

settlement reached, Respondent acknowledges notice of this right and 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 approved by Complainant or Complainant's delegate and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondent shall comply with Part 70 Renewal No. 089-42692-00133 unless superseded by a permit modification or renewal.
3. All submittals required by this Agreed Order, unless IDEM notifies the Respondent otherwise in writing, shall be sent to:  
  
Jennifer Bailey, Senior Enforcement Case Manager  
Office of Air Quality  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
Jbailey2@idem.in.gov
4. Pursuant to IC 13-30-4-1, Respondent is assessed and agrees to pay a civil penalty of Twenty Thousand Dollars (\$20,000.00). Within thirty (30) days of the Effective Date of the Agreed Order, Respondent shall pay a portion of this penalty in the amount of Five Thousand Dollars (\$5,000.00). Said penalty amount shall be due and payable to the Environmental Management Special Fund within thirty (30) days of the Effective Date; the 30th day being the "Due Date."

In lieu of payment to IDEM of the remaining civil penalty, Respondent shall pay Fifteen Thousand Dollars (\$15,000.00) to the Association for the Wolf Lake Initiative as a Supplemental Environmental Project ("SEP") to reduce the amount of illegal dumping that occurs on the bi-state Wolf Lake Watershed. This will include working with watershed managers, private and public landowners, and other government agencies to remove debris from watershed property.

Respondent shall make monthly payments to the Association for the Wolf Lake Initiative with the final payment to be made no later than April 30, 2024. The Case Number of this action shall be included in the memo line of the check.

The SEP proceeds will be spent to resolve bi-state concerns affecting the Wolf Lake watershed by convening bi-state meetings of government agencies, government officials, business, industry, local educational, civic, environmental groups, and individuals. The proceeds will be used at Wolf Lake Initiative's discretion.

In the event that Respondent does not make its final SEP payment by no later than April 30, 2024, the full amount of the civil penalty as stated in this paragraph, plus interest established by IC 24-4.6-1-101 on the remaining amount, less the portion of the civil penalty Respondent has already paid, will be due to IDEM within fifteen (15) days from Respondent's receipt of IDEM's notice to pay. Interest, at the rate established by IC 24-4.6-1-101, shall be calculated on the amount due from the date which is thirty (30) days after the Effective Date of this Agreed Order until the full civil penalty is paid.

5. Respondent shall provide Complainant with documentation of each payment to the Association for the Wolf Lake Initiative within one (1) week of such payment.
6. 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

7. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent pays any unpaid balance. Such interest shall be payable to the Environmental Management Special Fund and shall be payable to IDEM in the manner specified in Paragraph 6, above.
8. Signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent.
9. This Agreed Order shall apply to and be binding upon Respondent and all successors and assigns. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners, successors, or assigns before ownership rights are transferred.
10. No change in ownership, corporate, or partnership status of Respondent shall in any way alter the Respondent's status or responsibilities under this Agreed Order.
11. Respondent shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
12. 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.

13. 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 the obligation to comply with the requirements of any applicable permits or any applicable Federal or State laws or regulations.
14. 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. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
15. 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 violations specified in the NOV.
16. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the U.S. Environmental Protection Agency ("U.S. 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 U.S. EPA or any other agency or entity.
17. This Agreed Order shall remain in effect until Respondent has complied with all terms and conditions of this Agreed Order and IDEM has issued a Resolution of Case letter to Respondent.

**REMAINDER OF PAGE LEFT BLANK INTENTIONALLY**

TECHNICAL RECOMMENDATION:  
Department of Environmental  
Management

By: David P. McIver  
David P. McIver  
Section Chief  
Enforcement Section  
Office of Air Quality

Date: October 26, 2023

RESPONDENT:  
South Shore Slag, LLC

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

COUNSEL FOR RESPONDENT:

By: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT THIS \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 20\_\_\_\_.

For the Commissioner:

\_\_\_\_\_  
Matthew Stuckey  
Assistant Commissioner  
Office of Air Quality  
Indiana Department of Environmental  
Management

**From:** [Dave Malecha](#)  
**To:** [ROBERTS, GOLDIE](#)  
**Subject:** Read: South Shore Slag, LLC (#27322-A & 27955-A) Revised Proposed Agreed Order  
**Date:** Wednesday, November 1, 2023 11:04:11 AM

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Your message

To: Dave Malecha

Subject: South Shore Slag, LLC (#27322-A & 27955-A) Revised Proposed Agreed Order

Sent: Wednesday, November 1, 2023 9:59:38 AM (UTC-06:00) Central Time (US & Canada)

was read on Wednesday, November 1, 2023 10:03:32 AM (UTC-06:00) Central Time (US & Canada).