



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

June 21, 2024

Via Certified Mail: # 7017 2400 0000 0747 0928

Via Certified Mail: # 7017 2400 0000 0747 0935

Ben Wittenmyer
Director of Safety & Training
Sparks Commercial Tires, Inc.
16764 ST RT 12 E
Findlay, Ohio 45840
BenWittenmyer@sparkstire.com

Terry Sparks
Registered Agent
Sparks Commercial Tires Inc.
4632 Ardmore Avenue
Fort Wayne, Indiana 46809

Dear Sirs:

Re: Adoption of Agreed Order
Commissioner, Indiana Department of Environmental Management
v.
Sparks Commercial Tires Inc.
Case No.: 2023-29817-S
Waste Tire Storage Registration No.: 067-S-00621
Greencastle, Putnam County

The Agreed Order pertaining to the case referenced above has been approved for adoption by the Indiana Department of Environmental Management. A copy of the finalized agreement is enclosed for your records.

Please note the terms of compliance contained in the Agreed Order. The time frames for compliance are effective upon receipt of this letter. The invoice for payment of the civil penalty is attached. Thank you for your cooperation in resolving this matter. If you have any questions, please contact Linda McClure at (317) 233-5954 or via email at lmclure@idem.IN.gov.

Sincerely,

Jennifer Reno, Chief
Land Enforcement Section
Compliance Branch
Office of Land Quality

Enclosure

cc: Putnam County Health Department
Glynda Oakes, OLQ, HW Permit Section
Mason Ellis, OLQ, IW Compliance
IDEM Virtual Cabinet





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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 No. 2023-29817-S
))
SPARKS COMMERCIAL TIRES INC,)
))
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 Sparks Commercial Tires Inc which owns and operates the facility with Waste Tire Storage Registration No. 067-S-00621, located at 1230 North Jackson Street in Greencastle, Putnam 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”) on via certified mail to:



John Sparks, President
Sparks Commercial Tires Inc
16764 St Rt 12 E
Findlay, Ohio 45840

Terry Sparks, Registered Agent
Sparks Commercial Tires Inc
4632 Ardmore Ave
Fort Wayne, Indiana 46809

5. Respondent is a Waste Tire Storage Facility.
6. On June 16, 2023, IDEM e-mailed a Waste Tire Rule Notification to Respondent who received it. It provided notice to Respondent of changes that were made to 329 IAC 15 and provided a copy of the rule changes which had been filed November 28, 2022.
7. During an investigation including inspections and a record review on July 31, 2023 and November 27, 2023, conducted by a representative of IDEM, the following violation was found:
 - a. Pursuant to the newly enacted 329 Indiana Administrative Code (“IAC”) 15-3-20.5(a), each business day, the owner or operator of a waste tire storage site or waste tire processing operation shall record the number of Passenger Tire Equivalent (PTEs) that: (1) arrive at the facility; (2) leave the facility; and (3) are currently stored at the facility.

As noted during the inspection, Respondent failed to record the number of PTEs arriving at, leaving, and currently stored at the facility for each business day.
9. A Violation/Inspection Summary letter was issued on August 2, 2023, which noted in the attached July 31, 2023 inspection report that Respondent was required to submit a written response documenting the [waste tire] counting method for PTEs and updated counts. To date, no response has been received.
10. 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 the rule listed in the findings of fact above.
3. Immediately upon the Effective Date, Respondent shall comply with 329 IAC 15-3-20.5(a). Specifically, Respondent shall implement a system to count all tires incoming, outgoing, and on Site.
4. For ninety (90) days after the Effective Date, Respondent shall submit daily documentation of counting method and updated counts to IDEM.

5. All submittals required by this Agreed Order, unless IDEM notifies the Respondent otherwise in writing, shall be sent to:

Linda McClure, Enforcement Case Manager
Office of Land Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251

6. Pursuant to IC 13-30-4-1, Respondent is assessed and agrees to pay a civil penalty of Three Thousand Four Hundred Dollars (\$3,400). After this Agreed Order is adopted (signed by the Assistant Commissioner of the Office of Land Quality), Respondent shall pay by the due date printed on the Invoice that will be attached to the adopted Agreed Order.

Civil and stipulated penalties are payable to the "Indiana Department of Environmental Management" by:

Mail:

Civil penalties are payable by check to the "Indiana Department of Environmental Management." Checks shall include the Case Number of this action and shall be mailed to:

Indiana Department of Environmental Management
Accounts Receivable
P.O. Box 3295
Indianapolis, IN 46206

Online:

Accounts Receivable is accepting payments online by e-Check, Master Card, Visa or Discover. Please visit www.IN.gov/IDEM. Under Online Services, click Online Payment options and follow the prompts. A processing fee of \$0.40 plus 2.06% will be charged for credit card payments. A processing fee of \$0.15 will be charged for eCheck payments. The Case Number is required to complete the process.

Phone:

You may also call us at 317-234-3099 and follow the instructions for Master Card, Visa or Discover payments. A processing fee of \$0.40 plus 2.06% will be charged for credit card payments. A processing fee of \$0.15 will be charged for eCheck payments. The Case Number is required to complete the process.

7. In the event the terms and conditions of the following paragraphs are violated, Complainant may assess, and Respondent shall pay a stipulated penalty in the following amount:

<u>Paragraph</u>	<u>Stipulated Penalty</u>
Order paragraph #3	\$100 per week

Order paragraph #4 \$100 per week

8. Stipulated penalties shall be due and payable no later than the thirtieth day after Respondent receives written notice that Complainant has determined a stipulated penalty is due; at which time, a separate invoice will be issued. Complainant may notify Respondent at any time that a stipulated penalty is due. Failure to notify Respondent in writing in a timely manner of a stipulated penalty assessment shall not waive Complainant's right to collect such stipulated penalty or preclude Complainant from seeking additional relief against Respondent for violation of this Agreed Order. Neither assessment nor payment of stipulated penalties shall preclude Complainant from seeking additional relief against Respondent for a violation of this Agreed Order; such additional relief includes any remedies or sanctions available pursuant to Indiana law, including, but not limited to, civil penalties pursuant to IC 13-30-4.
9. 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 an additional penalty of 10 percent, payable to "Indiana Department of Environmental Management," and shall be payable to IDEM in the manner specified in Paragraph 6, above.
10. Signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent.
11. 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.
12. 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.
13. Respondent shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
14. 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.
15. 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.
16. 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.

17. 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 violation specified in the NOV.
18. 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.
19. This Agreed Order shall remain in effect until IDEM issues a Resolution of Case letter to Respondent.

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY

TECHNICAL RECOMMENDATION:
Department of Environmental Management

By: Jennifer Reno
Jennifer Reno, Chief
Land Enforcement Section
Compliance Branch
Office of Land Quality

Date: 5/6/2024

RESPONDENT:

By: Ben J. Wittenmyer
Printed: BEN J. WITTENMYER
Title: DIRECTOR OF SAFETY & TRAINING

Date: 6/4/24

COUNSEL FOR RESPONDENT:

By: N/A
Printed: _____
Date: _____

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT THIS 18th DAY OF June, 2024

For the Commissioner:

Brian Wolff
Brian Wolff
Assistant Commissioner
Office of Land Quality

INVOICE

Please Remit To:

INDIANA DEPT. OF ENVIRONMENTAL MANAGEMENT
PO BOX 3295
INDIANAPOLIS IN 46206-3295

Page: 1
Invoice No: 000372914
Invoice Date: 06/20/2024
Customer Number: CST100045184
Bill Type: 075
Payment Terms: NET 30
Due Date: 07/20/2024

Bill To:

SPARKS COMMERCIAL TIRES INC
BEN WITTENMYER
16764 ST RT 12 E
FINDLAY OH 45840

AMOUNT DUE: 3,400.00 USD

Amount Remitted

Note Address Changes Above Email Address: _____

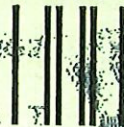
Write the invoice number on your check and return the upper portion of this invoice.

For billing questions, please email us at BILLING@IDEM.IN.GOV

Line	Adj	Identifier	Description	Quantity	UOM	Unit Amt	Net Amount
1		2023-29817-S	AGREED ORDER	1.00	EA	3,400.00	3,400.00
<p>- Accounts Receivable is accepting payments online by e-Check, MasterCard, Visa, American Express or Discover. Please visit www.in.gov/idem. Under Online Services, click Online Payment options and follow the prompts.</p> <p>-You may also call us at 317-234-3099 to pay by MasterCard, Visa, American Express or Discover.</p> <p>-A processing fee of \$0.40 plus 2.06% will be charged for credit card payments. A processing fee of \$0.15 will be charged for eCheck payments.</p> <p>- Pursuant to the Agreed Order for the Case Number noted above in the identifier field, please remit the civil penalty within thirty (30) days of the effective date of the Agreed Order.</p>							
TOTAL AMOUNT DUE :						3,400.00	

Please write the invoice number on your check and return the upper portion of this invoice with remittance.

USPS TRACKING#



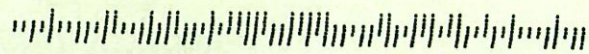
First Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

9590 9402 8575 3244 8934 24

**United States
Postal Service**

• Sender: Please print your name, address, and ZIP+4® in this box•

60-02L 1833 dbates
DEPT OF ENVIRONMENTAL MGMT
OFFICE OF LAND QUALITY ENFORCEMENT
100 N SENATE AVE RM N1101
INDIANAPOLIS IN 46204



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

60-02L (1833) dbates 29817-S
 TERRY SPARKS REGISTERED AGENT
 SPARKS COMMERCIAL TIRES INC
 4632 ARDMORE AVE
 FT WAYNE IN 46809



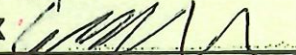
9590 9402 8575 3244 8934 24

2. Article Number (Transfer from service label)

7017 2400 0000 0747 0935

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X  Agent
 Address

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

RECEIVED
 JUN 26 2024

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail®
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Mail
- Mail Restricted Delivery
- Registered Mail Express®
- Registered Mail™
- Registered Mail Restricted Delivery
- Signature Confirmation
- Signature Confirmation Restricted Delivery

DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES
 OFFICE OF STATE COMPLAINTS

Tracking Number:

[Remove X](#)

7017240000007470935

[Copy](#)

[Add to Informed Delivery \(https://informedelivery.usps.com/\)](https://informedelivery.usps.com/)

Latest Update

Your item was delivered to an individual at the address at 9:40 am on June 24, 2024 in FORT WAYNE, IN 46809.

Get More Out of USPS Tracking:

USPS Tracking Plus®

Delivered

Delivered, Left with Individual

FORT WAYNE, IN 46809

June 24, 2024, 9:40 am

[See All Tracking History](#)

Feedback

[What Do USPS Tracking Statuses Mean? \(https://faq.usps.com/s/article/Where-is-my-package\)](https://faq.usps.com/s/article/Where-is-my-package)

Text & Email Updates



USPS Tracking Plus®



Product Information



[See Less ^](#)

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Enter tracking or barcode numbers