



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

Michael R. Pence
Governor

October 22, 2014

Thomas W. Easterly
Commissioner

VIA CERTIFIED MAIL # 91 7190 0005
2710 0036 2605

VIA CERTIFIED MAIL # 91 7190 0005
2710 0036 2612

Mr. Seth A. Smith, President
My-Trading, Inc. dba Diversified Green
Solutions
4954 Meadowcrest Lane
New Paris, OH 45347

Mr. Seth A. Smith, Registered Agent for
My-Way Trading, Inc. dba Diversified
Green Solutions
308 NW F Street
Richmond, IN 47374

Re: Notice of Violation and Proposed Agreed
Order
My-Way Trading, Inc. dba Diversified Green
Solutions
Case No. 2014-22479-H
Richmond, Wayne County

**Qualified offer of settlement: inadmissible per 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. Seth Smith:

IDEM conducted an investigation of My-Way Trading, Inc dba Diversified Green Solutions and has made a preliminary determination that violations of environmental management laws and/or rules exists. Per IC 13-30-3-3, enclosed please find a Notice of Violation that sets forth the alleged violations and a proposed Agreed Order which constitutes a qualified offer of settlement.

You may request a settlement conference to discuss the allegations and the actions necessary to correct and resolve the violations, which may include injunctive relief and the establishment of a compliance schedule. Payment of a civil penalty will also be discussed. The civil penalty amount noted in the proposed Agreed Order contains a preliminary penalty figure for settlement discussion purposes only and is based on penalty calculations associated with the alleged violations set forth in the Notice of Violation. A portion of the civil penalty may be offset by performing an approved Supplemental Environmental Project (SEP). Typical SEPs have included pollution prevention, pollution control, and environmental restoration projects. A copy of

IDEM's SEP policy may be obtained from this office or at IDEM's website at www.IN.gov/idem.

The individual signing the enclosed Agreed Order should be fully authorized to execute the document and legally bind the parties. The timely entry into an Agreed Order, which saves you and IDEM time and resources, may lead to a reduction in the civil penalty.

IDEM is not required to extend the offer of entry into an Agreed Order for more than 60 days. You may enter into an Agreed Order without admitting that the violations occurred. If an Agreed Order is not entered into, IDEM may proceed to issue a unilateral notice and order requiring compliance with the environmental laws and/or rules, including payment of a civil penalty. Please contact me at 317-233-5546 if you have any questions or if you wish to request a settlement conference.

Sincerely,



Christina Halloran
Case Manager
Enforcement Section
Office of Land Quality

Enclosures

cc: OLQ Public File
Wayne County Health Department
Christian Lowell, OLQ, Hazardous Waste Compliance
Mr. Craig J. Helmreich, Partner, Scopelitis, Garvin, Light, Hanson & Feary, P.C.
10 West Market Street, Suite 1500, Indianapolis, IN 46204



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NOTICE OF VIOLATION

Via Certified Mail#: 91 7190 0005 2710 Via Certified Mail#: 91 7190 0005 2710
0036 2605 0036 2612

To: Mr. Seth A. Smith, President
My-Way Trading, Inc.
dba Diversified Green Solutions
4954 Meadowcrest Lane
New Paris, OH 45347

To: Mr. Seth A. Smith, Registered Agent for
My-Way Trading, Inc.
dba Diversified Green Solutions
308 NW F Street
Richmond, IN 47374

Case No. 2014-22479-H

Based on an investigation including a record review and an inspection conducted on October 23, 2013, the Indiana Department of Environmental Management ("IDEM") has reason to believe that My-Way Trading, Inc. dba Diversified Green Solutions ("Respondent") has violated environmental statutes and rules. The violations are based on the following:

1. Respondent owns and/or operates a company located at 308 NW F Street in Richmond, Wayne County, Indiana (the "Site").
2. Respondent is primarily a plastic recycler at this location. Plastics are recycled by being shredded, ground, and pelletized onsite and some plastics are taken off site to be recycled. Other media and wastes are managed and recycled in lesser quantities. Respondent conducts other services that includes but not limited to waste management consulting.
3. Respondent was issued a Violation Letter dated November 12, 2013 requesting a waste determination for the contents of two semi trailers received from offsite on September 20, 2013.
4. Respondent accepted two (2) semi trailers containing a variety of waste. The wastes consisted of small containers of unused liquid automobile related fluids such as cleaners, flushes, conditioners, additives, and supplements. The Bill of Lading which accompanied the shipment indicated that Multi-Pack Atlanta, Winder, Georgia initiated the shipment to be transported to Quality Farms in Ohio however Respondent diverted the shipment to its facility in Richmond, Indiana.



A State that Works

5. Respondent stated that the material will be used for beneficial reuse as a product. However, at the time of and following the inspection, Respondent could not demonstrate documentation that there is a known beneficial reuse for this material in order for it to be excluded from regulation as a solid and hazardous waste. It was noted in the October 23, 2013 inspection report that some of the material is characteristic for ignitability (D001). Respondent was informed pending the disposition of the material it would be subject to all applicable regulatory requirements.
6. One trailer was transported to Bee Environmental Management, Inc. (Bee) located at 688 Tower Road, Plainfield, Indiana, on April 23 and the other on April 24, 2014 on non-hazardous waste manifests indicating Respondent as the generator.
7. As a result of further investigation by IDEM into the disposition of the trailer contents, Respondent was issued a Referral to Land Enforcement Letter dated July 1, 2014. The waste was transported from Bee to Tier Environmental, Bedford, Ohio on a hazardous waste manifest indicating Multi-Pack Atlanta as the generator. A copy of the final hazardous waste manifest was obtained with the assistance of the Ohio EPA indicating 522 gallons was non regulated mineral oil, 523 gallons was corrosive (D002) hazardous waste, and 4,675 gallons was ignitable (D001) hazardous waste.
8. 329 Indiana Administrative Code ("IAC") 3.1 incorporates certain federal hazardous waste management requirements found in 40 Code of Federal Regulations ("CFR") Parts 260 through 270 and Part 273, including those identified below.
9. Pursuant to 40 CFR 262.11, a person who generates a solid waste must determine if that waste is hazardous.

As noted during the inspection, Respondent did not make hazardous waste determinations on the contents of two semi trailers that contained 65,485 pounds of waste which had been onsite since September 20, 2013. Approximately 64% of the loads contained a petroleum distillate with a flash point of 122 degrees F, based on MSDS and an inventory list. Respondent stated the material was going to be reused as a product although no documentation was available to confirm.

The material in the trailers were intended to be shipped from Multi-Pack Atlanta to Quality Farms for a beneficial reuse/continued application however the trailers were diverted to Respondent's facility.

Upon further investigation by IDEM it was found that Respondent shipped the trailers, one on April 23 and the other on April 24, 2014, to Bee. Both shipments were transported on a non hazardous waste manifest to Bee to be bulked. Respondent sent Bee a hazardous waste manifest on May 20, 2014 instructing Bee to sign the generator/offendor signature on the hazardous waste manifest on behalf of Respondent. The waste was transported to Tier Environmental on May 21, 2014. The hazmat bill of lading identifies Bee as the shipper. The hazardous waste

manifest identifies Multi-Pack Atlanta as the generator and Tier Environmental as the designated facility. The hazardous waste manifest indicated that 4,675 gallons of waste flammable liquids (petroleum distillates, 2-butoxyethanol) with the ignitable characteristic code of D001 and the remainder was 1,045 gallons of non-regulated, mineral oil. With the assistance of the Ohio EPA, IDEM received a copy of the hazardous waste manifest with the designated facilities signature. Tier Environmental noted a discrepancy that indicates 523 gallons of the non-regulated mineral spirits was actually a regulated D002 corrosive hazardous waste with a pH of 1.

10. Pursuant to 329 IAC 3.1-6-2(2), Respondents in actions to enforce regulations implementing IC 13 who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation to demonstrate that the material is not a waste or is exempt from regulation. An example of appropriate documentation is a contract showing that a second person uses the material as an ingredient in a production process. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

As noted during the inspection, Respondent was not able to demonstrate by providing the appropriate documentation that the material on the two trailers were not wastes, or that they were exempt from regulation.

11. Pursuant to 329 IAC 3.1-1-10, every hazardous waste generator, transporter, or owner or operator of a hazardous waste facility shall notify the commissioner of its hazardous waste activity on the approved forms.

As noted during the inspection and record review, Respondent failed to notify the Commissioner of hazardous waste generator and storage activities. Respondent diverted two semi trailers that were to be shipped from Multi-Pack Atlanta to Quality Farms for reuse. Respondent at this time took responsibility for the contents in the trailers including being the generator and stored the trailers onsite for greater than 7 months.

12. Pursuant to 40 CFR 270.1(c), a permit is required for the treatment, storage and disposal of any hazardous waste as identified or listed in 40 CFR Part 261.

As noted during the inspection and record review, Respondent stored hazardous waste identified or listed in 40 CFR Part 261 without a permit. Specifically, two semi trailers were stored onsite for greater than seven months. The trailers consisted of 522 gallons of non-regulated mineral oil, 4,675 gallons of ignitable waste (D001) (petroleum distillates, 2-butoxyethanol) and 523 gallons of corrosive waste (D002).

13. Pursuant to 40 CFR 264.1, owners and operators of hazardous waste treatment facilities which treat, store, or dispose of hazardous waste shall comply with the applicable requirements of 40 CFR 264.

As noted during the inspection and record review, Respondent stored hazardous waste identified or listed in 40 CFR Part 261 without a permit. Specifically, two semi trailers were stored onsite for greater than seven months. The trailers consisted of 522 gallons of non-regulated mineral oil, 4,675 gallons of ignitable waste (D001) (petroleum distillates, 2-butoxyethanol) and 523 gallons of corrosive waste (D002).

14. Pursuant to 40 CFR 262.12(c), a generator must not offer its hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

As noted during the inspection, Respondent sent its hazardous waste to Bee who does have an EPA ID No. but Bee is not notified as a permitted RCRA hazardous waste facility.

15. Pursuant to 40 CFR 262.20, a generator who transports, or offers for transportation, hazardous waste for offsite treatment, storage, or disposal, must prepare a manifest. A generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest. A generator may designate an alternate facility to handle his waste in the event that an emergency prevents delivery of the waste to the primary designated facility.

As noted during the inspection and record review, Respondent offered hazardous waste for transportation for offsite treatment, storage, or disposal without preparing a manifest. Specifically, Respondent offered D001 and D002 hazardous waste to Bee without preparing a hazardous waste manifest. Furthermore, Bee is not a permitted hazardous waste facility authorized to receive or store hazardous waste. Bee is notified as a hazardous waste transporter and transfer facility.

16. Pursuant to IC 13-30-2-1(12), a person may not cause or allow the transportation of a hazardous waste without a manifest if a manifest is required by law.

As noted during the inspection and record review, Respondent caused or allowed the transportation of a hazardous waste without a manifest as required by law. Specifically, Respondent offered D001 and D002 hazardous waste to Bee without preparing a hazardous waste manifest. Furthermore, Bee is not a permitted hazardous waste facility authorized to receive or store hazardous waste. Bee is notified as a hazardous waste transporter and transfer facility.

17. Pursuant to 40 CFR 268.7(a), a generator must determine if a hazardous waste is restricted from land disposal and if the waste has to be treated before being land disposed. With the initial shipment of waste to each treatment, storage, disposal facility, a generator must send a one-time written notice to each facility receiving the waste and place a copy in the file.

As noted during the inspection and record review, Respondent offered for transport D001 and D002 hazardous waste without a written one time land ban notice to Bee the receiving facility. The hazardous waste eventually was sent to Tier

Environmental, a permitted treatment, storage, disposal facility, from Bee with a onetime land ban notice but it did not address the D002 corrosive waste.

In accordance with IC 13-30-3-3, the Commissioner herein provides notice that violations may exist and offers an opportunity to enter into an Agreed Order providing for the actions required to correct the violations and, as necessary and appropriate, for the payment of a civil penalty. The Commissioner is not required to extend this offer for more than sixty (60) days.

As provided in IC 13-30-3-3, an alleged violator may enter into an Agreed Order without admitting that the violations occurred. IDEM encourages settlement by Agreed Order, thereby resulting in quicker correction of the environmental violations and avoidance of extensive litigation. Timely settlement by Agreed Order may result in a reduced civil penalty. Also, settlement discussions will allow the opportunity to present any mitigating factors that may be relevant to the violations.

If an Agreed Order is not entered into within sixty (60) days of receipt of this Notice of Violation, the Commissioner may issue a Notice and Order under IC 13-30-3-4 containing the actions that must be taken to correct the violations and requiring the payment of an appropriate civil penalty. Pursuant to IC 13-30-4-1, the Commissioner may assess penalties of up to \$25,000 per day for each violation.

Please contact Christina Halloran at (317) 233-5546 within fifteen (15) days after receipt of this Notice to discuss resolution of this matter.

For the Commissioner:

Date: 10/23/2014



Bruce Kizer, Branch Chief
Compliance and Response Branch
Office of Land Quality

cc: Wayne County Health Department (w/enclosure)
Christian Lowell, Office of Land Quality (w/enclosure)
OLQ Public File (w/enclosure)
<http://www.in.gov/idem/enforcement/>

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Michael R. Pence
Governor

Thomas W. Easterly
Commissioner

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. 2014-22479-H
)
MY-WAY TRADING, INC. DBA)
DIVERSIFIED GREEN SOLUTIONS,)
)
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 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 My-Way Trading, Inc. dba Diversified Green Solutions (“Respondent”), which owns/operates the company located at 308 NW F Street, in Richmond, Wayne 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 Mail to.



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Mr. Seth A. Smith, President
My-Way Trading, Inc.
dba Diversified Green Solutions
4954 Meadowcrest Lane
New Paris, OH 45347

Mr. Seth A. Smith, Registered Agent
My-Way Trading, Inc.
dba Diversified Green Solutions
308 NW F Street
Richmond, IN 47374

5. Respondent is primarily a plastic recycler at this location. Plastics are recycled by being shredded, ground, and pelletized onsite and some plastics are taken off site to be recycled. Other media and wastes are managed and recycled in lesser quantities. Respondent also conducts other services that includes but not limited to waste management consulting.
6. Respondent was issued a Violation Letter dated November 12, 2013 requesting a waste determination for the contents of two semi trailers received from offsite on September 20, 2013.
7. Respondent accepted two (2) semi trailers containing a variety of waste. The wastes consisted of small containers of unused liquid automobile related fluids such as cleaners, flushes, conditioners, additives, and supplements. The Bill of Lading which accompanied the shipment indicated that Multi-Pack Atlanta, Winder, Georgia initiated the shipment to be transported to Quality Farms in Ohio however Respondent diverted the shipment to its facility in Richmond, Indiana.
8. Respondent stated that the material will be used for beneficial reuse as a product. However, at the time of and following the inspection, Respondent could not demonstrate documentation that there is a known beneficial reuse for this material in order for it to be excluded from regulation as a solid and hazardous waste. It was noted in the October 23, 2013 inspection report that some of the material is characteristic for ignitability (D001). Respondent was informed pending the disposition of the material it would be subject to all applicable regulatory requirements.
9. One trailer was transported to Bee Environmental Management, Inc. (Bee) located at 688 Tower Road, Plainfield, Indiana, on April 23 and the other on April 24, 2014 on non-hazardous waste manifests indicating Respondent as the generator.
10. As a result of further investigation by IDEM into the disposition of the trailer contents, Respondent was issued a Referral to Land Enforcement Letter dated July 1, 2014. The waste was transported from Bee to Tier Environmental, Bedford, Ohio on a hazardous waste manifest indicating Multi-Pack Atlanta as the generator. A copy of the final hazardous waste manifest was obtained with the assistance of the Ohio EPA indicating 522 gallons was non regulated mineral oil, 523 gallons was corrosive (D002) hazardous waste, and 4,675 gallons was ignitable (D001) hazardous waste.
11. 329 IAC 3.1 incorporates certain federal hazardous waste management requirements found in 40 CFR Parts 260 through 270, and Part 273 including these identified below.

12. During an investigation including an inspection on October 23, 2013 and an ongoing record review conducted by a representative of IDEM, the following violations were found:

- a. Pursuant to 40 CFR 262.11, a person who generates a solid waste must determine if that waste is hazardous.

As noted during the inspection, Respondent did not make a hazardous waste determination on the contents of two semi trailers that contained 65,485 pounds of waste which had been onsite since September 20, 2013. Approximately 64% of the loads contained a petroleum distillate with a flash point of 122 degrees F, based on MSDS and an inventory list. Respondent stated the material was going to be reused as a product although no documentation was available to confirm.

The material in the trailers were intended to be shipped from Multi-Pack Atlanta to Quality Farms for a beneficial reuse/continued application however the trailers were diverted to Respondent's facility.

Upon further investigation by IDEM it was found that Respondent shipped the trailers, one on April 23 and the other on April 24, 2014, to Bee. Both shipments were transported on a non hazardous waste manifest to Bee to be bulked. Respondent sent Bee a hazardous waste manifest on May 20, 2014 instructing Bee to sign the generator/offeror signature on the hazardous waste manifest on behalf of Respondent. The waste was transported to Tier Environmental on May 21, 2014. The hazmat bill of lading identifies Bee as the shipper. The hazardous waste manifest identifies Multi-Pack Atlanta as the generator and Tier Environmental as the designated facility. The hazardous waste manifest indicated that 4,675 gallons of waste flammable liquids (petroleum distillates, 2-butoxyethanol) with the ignitable characteristic code of D001 and the remainder was 1,045 gallons of non-regulated, mineral oil. With the assistance of the Ohio EPA, IDEM received a copy of the hazardous waste manifest with the designated facilities signature. Tier Environmental noted a discrepancy that indicates 523 gallons of the non-regulated mineral spirits was actually a regulated D002 corrosive hazardous waste with a pH of 1.

- b. Pursuant to 329 IAC 3.1-6-2(2), Respondents in actions to enforce regulations implementing IC 13 who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation to demonstrate that the material is not a waste or is exempt from regulation. An example of appropriate documentation is a contract showing that a second person uses the material as an ingredient in a production process. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

As noted during the inspection, Respondent was not able to demonstrate by providing the appropriate documentation that the material on the two trailers were not wastes, or that they were exempt from regulation.

- c. Pursuant to 329 IAC 3.1-1-10, every hazardous waste generator, transporter, or owner or operator of a hazardous waste facility shall notify the commissioner of its hazardous waste activity on the approved forms.

As noted during the inspection and record review, Respondent failed to notify the Commissioner of hazardous waste generator and storage activities. Respondent diverted two semi trailers that were to be shipped from Multi-Pack Atlanta to Quality Farms for reuse. Respondent at this time took responsibility for the contents in the trailers including being the generator and stored the trailers onsite for greater than 7 months.

- d. Pursuant to 40 CFR 270.1(c), a permit is required for the treatment, storage and disposal of any hazardous waste as identified or listed in 40 CFR Part 261.

As noted during the inspection and record review, Respondent stored hazardous waste identified or listed in 40 CFR Part 261 without a permit. Specifically, two semi trailers were stored onsite for greater than seven months. The trailers consisted of 522 gallons of non-regulated mineral oil, 4,675 gallons of ignitable waste (D001) (petroleum distillates, 2-butoxyethanol) and 523 gallons of corrosive waste (D002).

- e. Pursuant to IC 13-30-2-1(10), a person may not commence or engage in the operation of a hazardous waste facility without having first obtained a permit from the department.

As noted during the inspection, Respondent operated a hazardous waste facility without having first obtained a permit from the department.

Respondent stored two semi trailers of hazardous waste (D001, D002) for greater than seven months. Respondent intercepted two semi trailers shipped from Multi-Pack Atlanta that were destined to be shipped to Quality Farms for reuse.

- f. Pursuant to 40 CFR 264.1, owners and operators of hazardous waste treatment facilities which treat, store, or dispose of hazardous waste shall comply with the applicable requirements of 40 CFR 264.

As noted during the inspection and record review, Respondent stored hazardous waste identified or listed in 40 CFR Part 261 without a permit. Specifically, two semi trailers were stored onsite for greater than seven months. The trailers consisted of 522 gallons of non-regulated mineral oil, 4,675 gallons of ignitable waste (D001) (petroleum distillates, 2-butoxyethanol) and 523 gallons of corrosive waste (D002).

- g. Pursuant to 40 CFR 262.12(c), a generator must not offer its hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

As noted during the inspection, Respondent sent its hazardous waste to Bee who does have an EPA ID No. but Bee is not notified as a permitted RCRA hazardous waste facility.

- h. Pursuant to 40 CFR 262.20, a generator who transports, or offers for transportation, hazardous waste for offsite treatment, storage, or disposal, must prepare a manifest. A generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest. A generator may designate an alternate facility to handle his waste in the event that an emergency prevents delivery of the waste to the primary designated facility.

As noted during the inspection and record review, Respondent offered hazardous waste for transportation for offsite treatment, storage, or disposal without preparing a manifest. Specifically, Respondent offered D001 and D002 hazardous waste to Bee without preparing a hazardous waste manifest. Furthermore, Bee is not a permitted hazardous waste facility authorized to receive or store hazardous waste. Bee is notified as a hazardous waste transporter and transfer facility.

- i. Pursuant to IC 13-30-2-1(12), a person may not cause or allow the transportation of a hazardous waste without a manifest if a manifest is required by law.

As noted during the inspection and record review, Respondent caused or allowed the transportation of a hazardous waste without a manifest as required by law. Specifically, Respondent offered D001 and D002 hazardous waste to Bee without preparing a hazardous waste manifest. Furthermore, Bee is not a permitted hazardous waste facility authorized to receive or store hazardous waste. Bee is notified as a hazardous waste transporter and transfer facility.

- j. Pursuant to 40 CFR 268.7(a), a generator must determine if a hazardous waste is restricted from land disposal and if the waste has to be treated before being land disposed. With the initial shipment of waste to each treatment, storage, disposal facility, a generator must send a one-time written notice to each facility receiving the waste and place a copy in the file.

As noted during the inspection and record review, Respondent offered for transport D001 and D002 hazardous waste without a written one time land ban notice to Bee the receiving facility. The hazardous waste eventually was sent to Tier Environmental, a permitted treatment, storage, disposal facility, from Bee with a onetime land ban notice but it did not address the D002 corrosive waste.

- 13. 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 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 statutes, rules, and/or permit conditions listed in the findings above.
3. Upon the Effective Date, Respondent shall comply with 40 CFR 262.11. Specifically, Respondent shall ensure that a proper waste determination is provided for each solid waste generated at the Site.
4. Upon the Effective Date, Respondent shall comply with 329 IAC 3.1-6-2(2). Specifically, Respondent shall ensure when a claim is made that a certain material is not a solid waste, or is conditionally exempt from regulation the proper documentation demonstrating that there is a known market (such as contracts showing that a second person uses the material as an ingredient in a production process) is available upon request.
5. Upon the Effective Date, Respondent shall ensure compliance with 40 CFR 262.20 and IC 13-30-2-1(12). Specifically, Respondent shall not allow the transport of hazardous waste without a manifest.
6. Upon the Effective Date, Respondent shall not store hazardous waste onsite without complying with the applicable 40 CFR 264 and 40 CFR 270 requirements.
7. Upon the Effective Date, Respondent shall ensure that waste transported to their facility or waste transported by Respondent is accompanied with the proper Bill of Lading and/or manifest as required by the appropriate applicable regulations.
8. Upon the Effective Date, Respondent shall obtain the proper EPA Identification number if Respondent plans to transport or generate hazardous waste in the future.
9. Upon the Effective Date, Respondent shall ensure compliance with 40 CFR 268.7(a). Specifically, Respondent shall ensure that a land ban one-time notice with all the proper waste codes are provided with each initial shipment to each treatment, storage, disposal facility receiving the waste and a copy placed in the file.
10. Within thirty (30) days of the Effective Date of this Agreed Order, Respondent shall submit three (3) hard copies and one complete copy of the entire document on CD, in PDF format no greater than 100 megabytes per file, of a hazardous waste closure plan for the area where the two semi trailers were stored for greater than seven months to IDEM for approval. This closure plan shall be completed in accordance with the provisions of 40 CFR 264 Subpart G, as incorporated by 329 IAC 3.1-9-1.

11. Within ten (10) days of notice of IDEM's approval of the closure plan, Respondent shall implement the plan as approved and in accordance with the time frames contained therein.
12. In the event IDEM determines that any plan submitted by Respondent is deficient or otherwise unacceptable, Respondent shall revise and resubmit the plan to IDEM in accordance with IDEM's notice. After three (3) submissions of such plan by Respondent, IDEM may modify and approve any such plan and Respondent must implement the plan as modified by IDEM. The approved plan shall be incorporated into this Agreed Order and shall be deemed an enforceable part thereof.
13. All submittals required by this Agreed Order, unless Respondent is notified otherwise in writing by IDEM, shall be sent to:

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

14. Respondent is assessed and agrees to pay a civil penalty of Thirty Seven Thousand Five Hundred Dollars (\$37,500). 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".
15. 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>Penalty</u>
4.	\$500/week
6.	\$500/week
7.	\$500/week
10.	\$500/week
11.	\$500/week

16. Stipulated penalties shall be due and payable no later than the 30th day after Respondent receives written notice that Complainant has determined a stipulated penalty is due; the 30th day being the "Due Date". Complainant may notify Respondent at any time that a stipulated penalty is due. Failure to notify Respondent in writing in a timely manner of 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.

17. Civil and stipulated 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
Cashier
100 North Senate Avenue
Indianapolis, IN 46204-2251

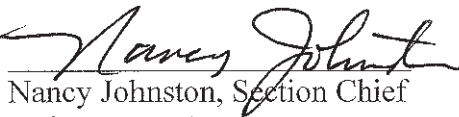
18. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondent shall pay interest on the unpaid balance at the rate established by IC 24-4.6-1. The interest shall be computed as having accrued from the Due Date until the date that Respondent 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 17, above.
19. This Agreed Order shall apply to and be binding upon Respondent 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 their status or responsibilities under this Agreed Order.
20. 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.
21. Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners or successors before ownership rights are transferred. Respondent shall ensure that all contractors, firms and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
22. 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 their obligation to comply with the requirements of its applicable permits or any applicable Federal or State law or regulation.
23. 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.
24. 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 violations specified in the NOV.

25. Nothing in this Agreed Order shall prevent IDEM or anyone acting on its behalf from communicating with the 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.
26. This Agreed Order shall remain in effect until IDEM issues a Resolution of Case letter to Respondent.

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TECHNICAL RECOMMENDATION:
Department of Environmental Management

By: 
Nancy Johnston, Section Chief
Enforcement Section
Office of Land Quality

Date: 10/9/14

RESPONDENT:

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:

Bruce H Palin
Assistant Commissioner
Office of Land Quality

Date: November 3, 2014

Donna Bates:

The following is in response to your October 29, 2014 request for delivery information on your Certified Mail™ item number 9171900005271000362605. The delivery record shows that this item was delivered on October 27, 2014 at 10:59 am in NEW PARIS, OH 45347. The scanned image of the recipient information is provided below.

Signature of Recipient :

Delivery Section	
Signature	<i>Shelly Reece</i>
Print Name	<i>S Reece</i>

Address of Recipient :

Address	<i>4954 Mendon</i>
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Thank you for selecting the Postal Service for your mailing needs.

If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,
United States Postal Service



Date Produced: 11/03/2014

INDIANA DEPT OF ENVIRONMENTAL MANAGEMENT:

The following is the delivery information for Certified Mail™ item number 7190 0005 2710 0036 2612. Our records indicate that this item was delivered on 10/27/2014 at 10:57 a.m. in RICHMOND, IN 47375. The scanned image of the recipient information is provided below.

Signature of Recipient :

A handwritten signature in black ink that reads "Seth Smith". The signature is written in a cursive style with a large, sweeping "S" at the beginning.

Address of Recipient :

A handwritten address in black ink that reads "P.O. Box 1000". The "P.O." is written on the first line and "Box 1000" is written on the second line.

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 5680-197173