



# 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

January 25, 2022

Via Certified Mail # 7017240000007468765

Via Certified Mail # 7017240000007468772

Robert Taggart  
Indiana Farm Bureau Insurance  
P.O. Box 6497  
Indianapolis, Indiana 46206  
[Robert.taggart@infarmbureau.com](mailto:Robert.taggart@infarmbureau.com)

Jason Fiechter  
Fiechter Farms  
3411 East 350 South  
Bluffton, Indiana 46714  
[fffarming@yahoo.com](mailto:fffarming@yahoo.com)

Dear Mr. Taggart and Mr. Fiechter:

Re: Adoption of Agreed Order  
Commissioner, Indiana Department of  
Environmental Management  
v.  
Fiechter Farms  
Case No. 2021-27986-C  
Bluffton, Wells 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 upon receipt of this letter. 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](mailto:lmclure@idem.IN.gov).

Sincerely,

Bruce Kizer, Branch Chief  
Compliance Branch  
Office of Land Quality

Enclosure

cc: Wells County Health Department  
Corey Webb, IDEM OLQ, Deputy Assistant Commissioner  
Julia Wickard, IDEM, Office of Program Support, Assistant Commissioner and  
Agricultural Liaison  
Jared Sawin, IDEM, OLQ, Office of Emergency Response  
IDEM Virtual File Cabinet



A State that Works

5. An amended Notice of Violation was issued in this matter. The previous Respondent, RC Farms, Inc., is owned by a separate family member. Therefore, the correct farm owner, Fiechter Farms, has been substituted as the Respondent in this matter. All information included in the September 30, 2021 Notice of Violation other than the substitution remains the same. All timeframes required for entering into the Proposed Agreed Order issued with the September 30, 2021 Notice of Violation remain the same.
6. During an investigation including daily inspections conducted between April 5 – 9, 2021, by a representative of IDEM, the following violations were found:
  - a. Pursuant to IC 13-30-2-1(1), no person shall discharge, emit, cause, allow, or threaten to discharge, emit, cause, or allow any contaminant or waste, including any noxious odor, either alone or in combination with contaminants from other sources, into the environment in any form that causes or would cause pollution that violates or would violate 327 IAC 2-1-6(a)(1)(E), a rule adopted by the board under the environmental management laws.

Pursuant to 327 IAC 2-1-6(a)(1)(E), the following are minimum surface water quality conditions:

- (1) All surface waters at all times and at all places, including waters within the mixing zone, shall meet the minimum conditions of being free from substances, materials, floating debris, oil, or scum attributable to municipal, industrial, agricultural, and other land use practices, or other discharges that do any of the following:
  - (E) Are in amounts sufficient to be acutely toxic to, or to otherwise severely injure or kill, aquatic life, other animals, plants, or humans.

As noted during the inspections, on or about April 3, 2021, Respondent allowed approximately 10,000 gallons of fertilizer from a hole in a 25,000-gallon steel tank to enter an earthen secondary containment berm (plastic lined). The fertilizer then exited the secondary containment via a hole in the base of the pump out sump, which allowed access to a four (4) inch field tile. The release then entered an unnamed ditch, which flowed to Six Mile Creek, which flowed to the Wabash River. A total of 23,084 fish, 516 mussels, 24 snapping turtles, 60 frogs, and 36 crayfish were killed as a result of the release, as reported by the Indiana Department of Natural Resources.

In response to the release, Respondent removed the earthen berm and agronomically applied the soil to farmland, collected over 11 million gallons of fertilizer/water from the damed areas in Six Mile Creek and agronomically applied the fertilizer/water to farmland, and plugged the field tiles.

On April 9, 2021, Respondent removed the two (2) 25,000-gallon fertilizer tanks from the Site.



- b. Pursuant to 327 IAC 2-6.1-7(3), any person who operates, controls, or maintains any mode of transportation or facility from which a spill occurs shall, upon discovery of a reportable spill to the soil or surface waters of the state, do the following:
  - (3) As soon as possible, but within two (2) hours of discovery, communicate a spill report to the Department of Environmental Management, Office of Land Quality, Emergency Response Section: Area Code 1-888-233-7745 for in-state calls (toll free), (317) 233-7745 for out-of-state calls. If new or updated spill report information becomes known that indicates a significant increase in the likelihood of damage to the waters of the state, the responsible party shall notify the department as soon as possible but within two (2) hours of the time the new or updated information becomes known.

As noted during the inspections, Respondent failed to report to IDEM the spill of approximately 10,000 gallons of fertilizer that entered an unnamed ditch, Six Mile Creek, and the Wabash River. Respondent was notified of the spill by an Indiana Conservation Officer.

7. On May 11, 2021, IDEM's Emergency Response Section issued a "No Further Action" letter.
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 the statute and rules listed in the findings of fact above.
3. Immediately upon the Effective Date, Respondent shall, as soon as possible, but within two (2) hours of discovery of a spill, communicate a spill report to IDEM's Emergency Spill Line at 1-888-233-7745 or 317-233-7745.
4. Pursuant to IC 13-30-4-1, Respondent is assessed and agrees to pay a civil penalty of Nineteen Thousand Dollars (\$19,000). Said penalty amount shall be due and payable to the "Environmental Management Special Fund" within thirty (30) days of the Effective Date; the thirtieth day being the "Due Date." 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. Pursuant to IC 13-25-6-2, Respondent shall reimburse IDEM for the cleanup of the spill event. IDEM has determined the amount to be Eight Thousand Two Hundred and Sixty-Eight Dollars and Seventy-Five Cents (\$8,268.75). This dollar amount is strictly for the purpose of cost recovery. A copy of the invoice may be found in Attachment A. Payment shall be made to the "Hazardous Substance Response Trust Fund" within thirty (30) days of the Effective Date. 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

6. 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," or "Hazardous Substance Response Trust Fund" and shall be payable to IDEM in the manner specified in Paragraph 4 and 5, above.
7. Signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent.
8. 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.
9. 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.
10. Respondent shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
11. 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.
12. 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.

13. 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.
14. Agreed Order resolves the alleged violations specified in the NOV. 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 and injunctive relief for the violations specified in the NOV.
15. 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.
16. 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: 12/8/2021

**RESPONDENT:**

By: Jason Fiechter  
Printed: JASON FIECHTER  
Title: Owner

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

**COUNSEL FOR RESPONDENT:**

By: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL  
MANAGEMENT THIS 25th DAY OF January, 20 22

For the Commissioner:

Peggy Dorsey  
Peggy Dorsey  
Assistant Commissioner  
Office of Land Quality

## BATES, DONNA

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**From:** Jason Fiechter <fffarming@yahoo.com>  
**Sent:** Tuesday, January 25, 2022 3:39 PM  
**To:** BATES, DONNA  
**Subject:** Re: Copy of Adoption of Agreed Order. Case No. 2021-27986-C Fiechter Farms  
**Attachments:** Fiechter Farms.AO.pdf; image002.png

\*\*\*\* This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. \*\*\*\*

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Donna,

Email received.

Thank you,  
Jason Fiechter

On Tuesday, January 25, 2022, 03:06:00 PM EST, BATES, DONNA <dbates@idem.in.gov> wrote:

Dear Mr. Taggart and Mr. Fiechter:

Please find the attached copy of Adoption of Agreed Order regarding Fiechter Farms. Once you have received this email would you please respond back to me (via e-mail) that you have received the document for our records.

Thank you.



**Donna Bates**

Administrative Assistant

Office of Land Quality

Indiana Department of Environmental  
Management

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(317) 233-5529 | [dbates@idem.in.gov](mailto:dbates@idem.in.gov)





## BATES, DONNA

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**From:** Taggart, Robert <Robert.Taggart@infarmbureau.com>  
**Sent:** Thursday, January 27, 2022 11:13 AM  
**To:** BATES, DONNA; fffarming@yahoo.com  
**Cc:** WEBB, COREY; Wickard, Julia; Sawin, Jared; McClure, Linda (IDEM)  
**Subject:** RE: Copy of Adoption of Agreed Order. Case No. 2021-27986-C Fiechter Farms

\*\*\*\* This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. \*\*\*\*

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Thank you, we acknowledge receipt. Additionally, Farm Bureau issued the required payments as instructed on 1-04-2021.

Thanks,

### Robert Taggart, J.D., AIC, SCLA

**Manager, Litigation | Indiana Farm Bureau Insurance**

P.O. Box 6497 | Indianapolis, IN. 46206-6497

Office: (317) 692-7139 | Mobile: (317) 519-7572 | Fax: (877) 209-4404

[Robert.Taggart@infarmbureau.com](mailto:Robert.Taggart@infarmbureau.com) | <http://www.infarmbureau.com/>

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**From:** BATES, DONNA <DBATES@idem.IN.gov>  
**Sent:** Tuesday, January 25, 2022 3:06 PM  
**To:** Taggart, Robert <Robert.Taggart@infarmbureau.com>; fffarming@yahoo.com  
**Cc:** WEBB, COREY <CWEBB@idem.IN.gov>; Wickard, Julia <JWickard@idem.IN.gov>; Sawin, Jared <JSawin@idem.IN.gov>; McClure, Linda (IDEM) <lmccclure@idem.IN.gov>  
**Subject:** [EXTERNAL] Copy of Adoption of Agreed Order. Case No. 2021-27986-C Fiechter Farms

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Dear Mr. Taggart and Mr. Fiechter:

Please find the attached copy of Adoption of Agreed Order regarding Fiechter Farms. Once you have received this email would you please respond back to me (via e-mail) that you have received the document for our records.

Thank you.



**Donna Bates**

Administrative Assistant

Office of Land Quality

Indiana Department of Environmental Management

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(317) 233-5529 | [dbates@idem.in.gov](mailto:dbates@idem.in.gov)



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## 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) 27986-C  
ROBERT TAGGART  
INDIANA FARM BUREAU INSURANCE  
P.O. BOX 6497  
INDPLS IN 46206



9590 9402 3350 7227 2835 83

## 2. Article Number (Transfer from service label)

7017 2400 0000 0746 8765

PS Form 3811, July 2015 PSN 7530-02-000-9053

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature

X *[Signature]*☐ Agent☐ Addressee

## 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

JAN 27 2022

## 3. Service Type:

☒ Adult Signature☐ Adult Signature Restricted Delivery☒ Certified Mail®☐ Certified Mail Restricted Delivery☐ Collect on Delivery☐ Collect on Delivery Restricted Delivery☐ all Restricted Delivery☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☐ Return Receipt for Merchandise☐ Signature Confirmation™☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

## 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) 27986-C  
JASON FIECHTER  
FIECHTER FARMS  
3411 EAST 350 SOUTH  
BLUFFTON IN 45714



9590 9402 3350 7227 2835 76

## 2. Article Number (Transfer from service label)

7017 2400 0000 0746 8772

PS Form 3811, July 2015 PSN 7530-02-000-9053

## COMPLETE THIS SECTION ON DELIVERY

## A. Signature

X *[Signature]*☒ Agent☒ Addressee

## 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

1-27-22

## 3. Service Type:

☒ Adult Signature☐ Adult Signature Restricted Delivery☒ Certified Mail®☐ Certified Mail Restricted Delivery☐ Collect on Delivery☐ Collect on Delivery Restricted Delivery☐ all Restricted Delivery☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☐ Return Receipt for Merchandise☐ Signature Confirmation™☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt