



## 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

June 15, 2022

**Via Certified Mail: # 7007 1490 0000 0838 8467**

Kristina Zurcher, Registered Agent  
J & E Tire Realty, LLC.  
116 W. Jackson  
Monroe, IN 46772

**Via Certified Mail: # 7007 1490 0000 0838 8474**

Christopher Anderson., Registered Agent  
J&E Tire Center, Inc.  
4835 South Harding Street  
Indianapolis, IN 46217  
[Anderson6806@sbcglobal.net](mailto:Anderson6806@sbcglobal.net)

Re: Notice of Violation and Proposed Agreed Order  
J & E Tire Realty, LLC and J & E Tire Center, Inc.  
Case Nos. 2022-28553-S & 2002-28554-S  
Indianapolis, Marion County

To Whom It May Concern:

**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.**

IDEM conducted an investigation of property located at 4835 South Harding Street, in Indianapolis, Marion County, Indiana and has made a preliminary determination that violations of environmental management laws and rules exist. 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.

The individuals 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.



Additionally, to encourage a timely agreement, IDEM may offer a onetime twenty percent reduction (20%) to the Civil Penalty for 60 days after receipt of this Notice of Violation.

If an Agreed Order is not entered into, IDEM may proceed to issue a unilateral notice and order requiring compliance with the environmental laws, rules, and/or permit, including payment of a civil penalty. Please contact me at (317) 232-7201 or via email at [jarnold@idem.IN.gov](mailto:jarnold@idem.IN.gov) if you have any questions or if you wish to request a settlement conference.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet Arnold". The signature is fluid and cursive, with the first name "Janet" and last name "Arnold" clearly distinguishable.

Janet Arnold  
Technical Environmental Specialist  
Compliance Branch  
Office of Land Quality

Enclosures

cc: OLQ Public File  
Marion County Health Department  
Molly Hobbs, Industrial Waste Compliance



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### **NOTICE OF VIOLATION**

To: Kristina Zurcher, Registered Agent  
J & E Tire Realty, LLC  
116 W. Jackson  
Monroe, IN 46772

To: Christopher Anderson, Registered Agent  
J & E Tire Center, Inc.  
4835 South Harding Street  
Indianapolis, IN 46217

Case Nos. 2022-28553-S & 2022-28554-S

Based on an investigation including inspections conducted on June 7, 2021; August 17, 2021; December 7, 2021; and February 7, 2022 by an Indiana Department of Environmental Management (“IDEM”) IDEM representative, IDEM has reason to believe J & E Tire Realty, LLC and J & E Tire Center, Inc. (“Respondents”) violated environmental statutes and rules. The violations are based on the following:

Respondent, J & E Tire Realty, LLC is the owner of Property at 4835 South Harding Street in Indianapolis, Marion County, Indiana (“Site”) and Respondent, J & E Tire Center, Inc., operates a tire retail shop, located at the Site. Respondents own and operate a waste tire storage facility without a registration at the Site.

1. Pursuant to 329 Indiana Administrative Code (“IAC”) 15-3-2, the owner or operator of a waste tire storage site shall (1) possess a valid certificate of registration issued under this rule; (2) comply with all applicable requirements of this rule; and (3) maintain financial assurance as required by 329 IAC 15-5.

As noted during the inspections, Respondents do not possess a valid certificate of registration to store waste tires. Respondents stored approximately 6,075 passenger tire equivalents (PTEs) at the Site. Approximately 1,340 of the 6,075 PTEs were waiting to be retreaded, but were not stored in accordance with IC 13-20-13-1(b).

2. Pursuant to Indiana Code (“IC”) 13-20-13-2, a person may not create or maintain a waste tire storage site or waste tire processing operation unless the person: (1) has registered the waste tire storage site or waste tire processing operation under this chapter and (2) holds a valid certificate of registration issued under section 3 of this chapter.

As noted during the inspections, Respondents do not possess a valid certificate of registration to store waste tires. Respondents stored approximately 6,075 passenger tire equivalents (PTEs) at the Site. Approximately 1,340 of the 6,075 PTEs were waiting to be retreaded, but were not stored in accordance with IC 13-20-13-1(b).

Pursuant to IC 13-30-3-3, the Commissioner herein provides notice that the 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.


Pursuant to IC 13-30-3-3, an alleged violator may enter into an Agreed Order without admitting 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 Respondents 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 Janet Arnold at (317) 232-7201 or [jarnold@idem.IN.gov](mailto:jarnold@idem.IN.gov) within fifteen (15) days of receipt of this Notice to discuss resolution of this matter.

For the Commissioner:

Date: 6/14/2022

  
\_\_\_\_\_  
Jennifer Reno, Chief  
Land Enforcement Section  
Office of Land Quality

# INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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**Eric J. Holcomb**  
*Governor*

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*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 Nos. 2022-28553-S &  
2022-28554-S

J & E TIRE REALTY, LLC, &  
J & E TIRE CENTER, INC.,

Respondents. )

## AGREED ORDER

Complainant and Respondents 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. Respondents' entry into this Agreed Order shall not constitute a waiver of any defense, legal or equitable, which Respondents 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, J & E Tire Realty, LLC is the owner of Property at 4835 South Harding Street in Indianapolis, Marion County, Indiana (“Site”) and Respondent, J & E Tire Center, Inc., operates a tire retail shop, located at the Site. Respondents own and operate a waste tire storage facility without a registration at the 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 email to:

Christopher Anderson, Registered Agent  
J & E Tire Center, Inc.  
4835 South Harding Street  
Indianapolis, IN 46217

Kristina Zurcher, Registered Agent  
J & E Tire Realty, LLC  
116 W. Jackson  
Monroe, IN 46772

5. During an investigation including inspections on June 7, 2021; August 17, 2021; December 7, 2021; and February 7, 2022, conducted by a representative of IDEM, the following violations were found:

- a. Pursuant to 329 Indiana Administrative Code (“IAC”) 15-3-2, the owner or operator of a waste tire storage site shall (1) possess a valid certificate of registration issued under this rule; (2) comply with all applicable requirements of this rule; and (3) maintain financial assurance as required by 329 IAC 15-5.

As noted during the inspections, Respondents do not possess a valid certificate of registration to store waste tires. Respondents stored approximately 6,075 passenger tire equivalents (PTEs) on Site. Approximately 1,340 of the 6,075 PTEs were waiting to be retreaded, but were not stored in accordance with IC 13-20-13-1(b).

- b. Pursuant to Indiana Code (“IC”) 13-20-13-2, a person may not create or maintain a waste tire storage site or waste tire processing operation unless the person: (1) has registered the waste tire storage site or waste tire processing operation under this chapter and (2) holds a valid certificate of registration issued under section 3 of this chapter.

As noted during the inspections, Respondents do not possess a valid certificate of registration to store waste tires. Respondents stored approximately 6,075 passenger tire equivalents (PTEs) on Site. Approximately 1,340 of the 6,075 PTEs were waiting to be retreaded, but were not stored in accordance with IC 13-20-13-1(b).

6. 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, Respondents acknowledge 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 Respondents. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondents shall comply with 329 IAC 15-3-2 and IC 13-20-13-2 listed in the findings of fact above.

3. Respondents shall not operate a solid waste storage facility unless permitted in accordance with 329 IAC 15.
4. Within thirty (30) days of the Effective Date, Respondents shall ensure that all used tires at the Site meet the following criteria:
  - a. The tire is suitable for use on a motor vehicle as follows:
    - 1) The tire has two thirty-seconds (2/32) inch of remaining tread, or the tire wear bars are not exposed.
    - 2) The tire has no cuts, slashes, or exposed cord.
  - b. The tire is stored in a rack, stack, or row.
    - 1) is accessible for inspection; and
    - 2) allows access for emergency equipment.
  - c. The tire is stored out of the weather to prevent accumulation of water or precipitation in the tires.
5. Within thirty (30) days of the Effective Date, Respondents shall remove and properly dispose of all waste tires that do not meet the requirements of a used tire or retread tire at a permitted solid waste disposal facility.
6. Within forty-five (45) days of the Effective Date, Respondents shall submit disposal records for the removal and proper disposal of all waste tires that do not meet the requirements of a used tire or retread tire at a permitted solid waste disposal facility. Respondent shall also submit records for tires taken to a retread facility.
7. All submittals required by this Agreed Order, unless IDEM notifies the Respondents otherwise in writing, shall be sent to:

Janet Arnold, Technical Environmental Specialist  
Office of Land Quality  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, IN 46204-2251

8. Pursuant to IC 13-30-4-1, Respondents are assessed and agree to pay a civil penalty of Eleven Thousand Two Hundred and Fifty Dollars (\$11,250), for which Respondents are jointly and severally liable. Respondents shall pay by the due date printed on the Invoice, as attached.

Civil and stipulated penalties are payable to the "Waste Tire Fund" by:

Mail:

Civil penalties are payable by check to the "Waste Tire 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

**Online:**

Accounts Receivable is accepting payments online by e-Check, Master Card, Visa or Discover. Please visit [www.IN.gov/IDEM](http://www.IN.gov/IDEM). Under Online Services, click Online Payment options and follow the prompts. A processing fee of \$1 plus 1.99% will be charged for credit card payments. A processing fee of \$1.00 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 \$1 plus 1.99% will be charged for credit card payments. A processing fee of \$1.00 will be charged for eCheck payments. The Case Number is required to complete the process.

9. In the event the terms and conditions of the following paragraphs are violated, Complainant may assess and Respondents shall pay stipulated penalties in the following amounts:

<b><u>Paragraph</u></b>	<b><u>Stipulated Penalty</u></b>
Order paragraph #4	\$500 per week violation
Order paragraph #5	\$500 per week violation
Order paragraph #6	\$100 per week violation

10. Stipulated penalties shall be due and payable no later than the thirtieth day after Respondents receive written notice that Complainant has determined a stipulated penalty is due; the thirtieth day being the "Due Date." Complainant may notify Respondents at any time that a stipulated penalty is due. Failure to notify Respondents 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 Respondents for violation of this Agreed Order. Neither assessment nor payment of stipulated penalties shall preclude Complainant from seeking additional relief against Respondents 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.
11. In the event that the monies due to IDEM pursuant to this Agreed Order are not paid on or before their Due Date, Respondents shall pay an additional penalty of 10 percent, payable to the "Waste Tire Fund", and shall be payable to IDEM in the manner specified in Paragraph 8, above.
12. Signatories to this Agreed Order certify that they are fully authorized to execute this Agreed Order and legally bind the party they represent.

13. This Agreed Order shall apply to and be binding upon Respondents and all successors and assigns. Respondents shall provide a copy of this Agreed Order, if in force, to any subsequent owners, successors, or assigns before ownership rights are transferred.
14. No change in ownership, corporate, or partnership status of Respondents shall in any way alter the Respondents' status or responsibilities under this Agreed Order.
15. Respondents shall ensure that all contractors, firms, and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
16. 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.
17. 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 Respondents pursuant to this Agreed Order, shall not in any way relieve Respondents of the obligation to comply with the requirements of any applicable permits or any applicable Federal or State laws or regulations.
18. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondents' 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 Respondents may incur as a result of Respondents' efforts to comply with this Agreed Order.
19. 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.
20. 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 Respondents may incur as a result of such communications with the U.S. EPA or any other agency or entity.
21. This Agreed Order shall remain in effect until IDEM issues a Resolution of Case letter to Respondents.

**REMAINDER OF PAGE LEFT BLANK INTENTIONALLY**

**TECHNICAL  
RECOMMENDATION:**  
Department of Environmental  
Management

**RESPONDENT:**

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

By: \_\_\_\_\_  
Printed: J & E Tire Realty, LLC  
Title: \_\_\_\_\_

Date: 4/28/2022

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

**RESPONDENT:**

By: \_\_\_\_\_  
Printed: J & E Tire Center, Inc.  
Date: \_\_\_\_\_

**COUNSEL FOR RESPONDENTS**

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

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

For the Commissioner:

\_\_\_\_\_  
Peggy Dorsey  
Assistant Commissioner  
Office of Land Quality

## 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 (4833) 23553-S  
KRISTINA ZURCHER REGISTERED AGENT  
J & E TIRE REALTY LLC  
116 W JACKSON  
MONROE IN 46772



9590 9402 3350 7227 2806 74

2. Article Number (Transfer from service label)

7007 1490 0000 0838 8467

## 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

3. Service Type

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

Track Another Package +

Tracking Number: 70071490000008388467

Remove X

Your item was picked up at the post office at 10:39 am on June 17, 2022 in MONROE, IN 46772.

USPS Tracking Plus® Available ∨

✓ Delivered, Individual Picked Up at Post Office

June 17, 2022 at 10:39 am  
MONROE, IN 46772

Feedback

Get Updates ∨

Text & Email Updates	∨
Tracking History	∨
USPS Tracking Plus®	∨
Product Information	∨

See Less ^

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

## FAQs

Feedback