



## 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 27, 2023

VIA ELECTRONIC MAIL:

Josh Spindler, Assistant General Counsel  
Indiana University  
107 S. Indiana Avenue  
Bryan Hall 211  
Bloomington, IN 47405  
[joshspin@indiana.edu](mailto:joshspin@indiana.edu)

Re: Adoption of Agreed Order  
Commissioner, Indiana Department of  
Environmental Management  
v.  
Indiana University  
Plant ID No. 105-00005  
Case No. 2022-28843-A  
Bloomington, Monroe County

Dear Mr. Spindler:

This is to inform you that the Agreed Order in the above-referenced case has been approved and adopted by the Indiana Department of Environmental Management. A copy of the Agreed Order is enclosed.

Please note the terms of compliance contained in the Agreed Order. The time frames for compliance are effective upon your receipt of this correspondence. Please note that the civil penalty is due within thirty (30) days after the effective date of the Agreed Order. Payment should be made payable to the Environmental Management Special Fund and sent to:

Indiana Department of Environmental Management  
Accounts Receivable  
IGCN, Room 1340  
100 North Senate Avenue  
Indianapolis, IN 46204

Please include the Case Number on the front of the check. If you have any questions, please contact Jennifer Bailey at (317) 234-3996 or [jbailey2@idem.in.gov](mailto:jbailey2@idem.in.gov).

Sincerely,



David P. McIver, Chief  
Enforcement Section  
Office of Air Quality

Enclosure

cc: Keith Thompson, Indiana University (Thompkei@iu.edu)  
Ben Hunter, Indiana University (Bdhunter@iu.edu)  
Kathryn Manteuffel, Indiana University (Kmanteuf@iu.edu)  
Michael Dorsett, Indiana University (Mjdorset@iu.edu)  
Mark Menefee, Indiana University (Mmenefee@iu.edu)  
Susan Howard, Indiana University (Suhoward@iu.edu)  
Teddy Scales, Indiana University (Tlscales@iu.edu)  
Jennifer Bailey, Compliance and Enforcement Branch, OAQ  
Vaughn Ison, Compliance and Enforcement Branch  
Mark Messersmith, US EPA Region 5  
Monroe County Health Department  
<http://www.IN.gov/idem>



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Eric J. Holcomb  
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STATE OF INDIANA                    )  
  )  
COUNTY OF MARION                )   SS:   BEFORE THE INDIANA DEPARTMENT OF  
  )                   ENVIRONMENTAL MANAGEMENT

COMMISSIONER OF THE DEPARTMENT        )  
OF ENVIRONMENTAL MANAGEMENT,        )  
  )

Complainant,        )

v.        )

Case No. 2022-28843-A

INDIANA UNIVERSITY,        )

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 Indiana University ("Respondent"), which owns and operates the stationary source power plant that supplies campus with process heat from boilers, with Plant ID No. 105-00005, located at 820 N. Walnut Grove Avenue, in Bloomington, Monroe County, Indiana ("Site").
3. IDEM has jurisdiction over the parties and the subject matter of this action.
4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation ("NOV") in conjunction with this Agreed Order via Electronic Mail to:

Pamela Whitten, President  
Office of the President  
Indiana University  
107 S. Indiana Avenue  
Bryan Hall 200  
Bloomington, IN 47405  
IUpres@iu.edu

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

- a. Pursuant to Part 70 Operating Permit No. 105-41051-00005 ("Permit") condition C.8(c), all test reports must be received by IDEM, OAQ not later than forty-five (45) days after the completion of the testing.

Respondent failed to submit the results of the January 22, 2020 performance test until January 26, 2022, in violation of Permit condition C.8(c).

- b. Pursuant to Permit condition E.4.2(4) and 40 CFR 63.7515(a), you shall conduct all applicable performance tests according to §63.7520 on an annual basis, except as specified in paragraphs (b) through (e), (g), and (h) of this section. Annual performance tests must be completed no more than 13 months after the previous performance test, except as specified in paragraphs (b) through (e), (g), and (h) of this section.

Respondent failed to establish compliance during the January 22, 2020 performance test and failed to conduct a retest until October 6, 2022, in violation of Permit condition E.4.2(4) and 40 CFR 63.7515(a).

6. Respondent conducted compliance testing on October 6, 2022, with the results received by IDEM on November 21, 2022 indicating compliance.
7. 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 rules and permit conditions listed in the findings of fact above.

(12)

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

Jennifer Bailey, Senior Enforcement Case Manager  
Office of Air Quality  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
Jbailey2@idem.in.gov

4. Pursuant to IC 13-30-4-1, Respondent is assessed and agrees to pay a civil penalty of Nine Thousand Six Hundred Dollars (\$9,600.00). 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."

5. 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

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 and shall be payable to IDEM in the manner specified in Paragraph 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)

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. 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.
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 Respondent have complied with all terms and conditions of this Agreed Order and IDEM has issued a Resolution of Case letter to Respondent.

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TECHNICAL RECOMMENDATION:  
Department of Environmental  
Management

By: David P. McIver

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

Date: January 11, 2023

RESPONDENT:  
Indiana University

By: Kathryn Manteuffel

Printed: KATHRYN MANTEUFFEL

Title: UNIVERSITY DIRECTOR, EHS

Date: JANUARY 24, 2023

COUNSEL FOR RESPONDENT:

By: John Spill JRS

Date: 1/25/2023

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF  
ENVIRONMENTAL MANAGEMENT THIS 27th DAY OF  
January, 2023.

For the Commissioner:

Matthew Stuckey

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

(16)



**From:** [Spindler, Joshua Ryan](#)  
**To:** [ROBERTS, GOLDIE](#)  
**Cc:** [Bailey, Jennifer](#); [Thompson, Keith](#); [Hunter, Benjamin David](#); [Manteuffel, Kathryn M](#); [Dorsett, Michael J](#); [Menefee, Mark D](#); [Howard, Susan T](#); [Scales, Teddy I](#); [ISON, VAUGHN](#); [McIver, David](#); [Penny Caudill](#); [Messersmith, Mark](#)  
**Subject:** RE: Indiana University (#28843-A) Adopted Agreed Order  
**Date:** Friday, January 27, 2023 1:10:59 PM  
**Attachments:** [image001.png](#)

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Received by IU. Thanks, Goldie.

Josh Spindler  
Assistant General Counsel  
107 S. Indiana Ave, Bryan Hall 211  
Bloomington, IN 47405  
Phone: 812-856-1804/Fax: 812-855-0678  
[joshspin@indiana.edu](mailto:joshspin@indiana.edu)



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**From:** ROBERTS, GOLDIE <GROBERTS@idem.IN.gov>  
**Sent:** Friday, January 27, 2023 12:50 PM  
**To:** Spindler, Joshua Ryan <joshspin@indiana.edu>  
**Cc:** Bailey, Jennifer <JBailey2@idem.IN.gov>; Thompson, Keith <thompkei@iu.edu>; Hunter, Benjamin David <bdhunter@iu.edu>; Manteuffel, Kathryn M <kmanteuf@iu.edu>; Dorsett, Michael J <mjdorset@iu.edu>; Menefee, Mark D <mmenefee@indiana.edu>; Howard, Susan T <suhoward@iu.edu>; Scales, Teddy I <tlscales@indiana.edu>; ISON, VAUGHN <VISON@idem.IN.gov>; McIver, David <DMcIver@idem.IN.gov>; pcaudill <pcaudill@co.monroe.in.us>; Messersmith, Mark <Messersmith.mark@epa.gov>  
**Subject:** [External] Indiana University (#28843-A) Adopted Agreed Order

This message was sent from a non-IU address. Please exercise caution when clicking links or opening attachments from external sources.

Please find attached a PDF copy of the Adopted Agreed Order issued for Indiana University, Monroe County, IN, Air Enforcement Case #2022-28843-A.  
Please contact Jennifer Bailey at (317) 234-3996 or [jbailey2@idem.in.gov](mailto:jbailey2@idem.in.gov) with any questions.

Please confirm your receipt of this electronic document.

Thank you

**Goldie Roberts**  
**Administrative Assistant**