

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF	)	Case No. 3532
DICKIE VENTURES, LLC	)	
and POWER SPORTS NATION, LLC	)	COMPLAINT, COMPLIANCE ORDER
	)	AND NOTICE OF
FID #95644	)	OPPORTUNITY FOR HEARING
	)	
Respondents.	)	

**I. INTRODUCTION**

1. This Complaint, Compliance Order, and Notice of Opportunity for Hearing is issued pursuant to Neb. Rev. Stat. § 81-1507. The Complainant is the Director of the Nebraska Department of Environment and Energy (NDEE or Department).

2. Respondent Power Sports Nation, LLC (PSN), is an active domestic limited liability company has, at all times relevant herein, operated a salvage and resale business in Pierce County, NE. In the course of its normal business, PSN salvages all-terrain vehicles (ATVs) and utility terrain vehicles (UTVs), re-sells parts with value, and scraps the remainder of the vehicles.

3. Respondent Dickie Ventures, LLC (Dickie Ventures), is an active domestic limited liability company that owns the property on which PSN operates its salvage and resale business.

4. Complainant has determined the Respondents are in violation of the Nebraska Environmental Protection Act (NEPA), Neb. Rev. Stat. §§ 81-1501 to 81-1532, and Neb. Admin. Code, Title 132, Integrated Solid Waste Control Regulations.

5. The Complaint below establishes the violations, and the Compliance Order establishes a schedule for corrective actions to be taken by the Respondent.

**II. JURISDICTION**

6. NDEE is the agency of the State of Nebraska charged with the duty, pursuant to Neb. Rev. Stat. § 81-1504(1), of exercising exclusive general supervision, administration, and enforcement of NEPA and all rules and regulations promulgated under such acts.



7. Pursuant to the Nebraska Environmental Quality Council's authority to adopt and promulgate rules and regulations as expressed in Neb. Rev. Stat. § 81-1505(13) the Council adopted rules and regulations codified as Neb. Admin. Code, Title 132, Integrated Solid Waste Control Regulations (Title 132).

8. Both PSN and Dickie Ventures are a "person" under Neb. Rev. Stat. § 81-1502(10).

### **III. COMPLAINT**

9. Pursuant to Neb. Rev. Stat. § 13-2033, "no person shall dump or deposit any solid waste at any place other than a landfill approved by the director unless the department has granted a permit which allows the dumping or depositing of solid waste at any other facility", and "[s]torage of passenger tire equivalents of waste tires for more than one year without reuse, recycling, or shipment out of state is presumed to constitute disposal of solid waste".

10. Pursuant to Neb. Rev. Stat. §81-1506(3)(c), it is unlawful for any person to "[v]iolate any rule or regulation adopted and promulgated by the council pursuant to the Environmental Protection Act or the Integrated Solid Waste Management Act".

11. Title 132, Ch. 14, 001 states "Land disposal of recyclable waste tires in any form is prohibited."

12. On June 16, 2020, two NDEE employees responded to a report of tire fire on the property owned by Dickie Ventures and spoke with Mr. Todd Dickie, the registered agent and self-identified owner of PSN. Mr. Dickie estimated that the pile which had caught fire contained approximately 10,000 tires.

13. On June 30, 2020, a NDEE employee performed an inspection of the PSN facility. The NDEE inspector observed the tire pile which PSN had covered in sand to extinguish the fire, and met with Mr. Ben Sukup, General Manager of PSN, and Mr. Dickie. The NDEE inspector was told that PSN receives approximately thirty vehicles per week, which generates 120 ATV/UTV tires, and only an estimated 20 percent of the tires are resold.

14. On August 5, 2020, NDEE sent a Notice of Violation to PSN which required, among other things, that all waste and ash be removed and disposed of in a permitted solid waste management facility or ensure the delivery of any metal removed to a scrap metal recycler within 30 days from receipt of the letter.

15. Thereafter, in response to a request made by PSN, NDEE extend the compliance date for the proper disposal of ash and waste until December 11, 2020.

16. On February 23, 2021, a NDEE employee conducted a site visit to determine the progress made by PSN in removing and disposing of the waste and ash identified in the August 5, 2020 Notice of Violation.

### **III. COMPLIANCE ORDER**

17. Within 30 days of this Order becoming final, remove all waste, ash, and contaminated soil resulting from the June 16, 2020 fire and dispose of it in a permitted solid waste management facility. Scrap metal may be delivered to a scrap metal recycler.

18. Within 7 days of the completion of work described in paragraph 17, provide the Department with copies of all disposal and recycling documentation for the work.

19. Submissions to the Department under this Order shall refer to FID #95644 and shall be sent to:

Jeffery L. Edwards  
Waste Compliance Section Supervisor  
Nebraska Department of Environment and Energy  
P.O. Box 98922  
Lincoln, NE 68509-8922

### **IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING**

20. This Order shall become final, pursuant to Neb. Rev. Stat. § 81-1507(1), unless Respondent files an answer and requests, in writing, a hearing no later than thirty days after receipt of this

Order. Failure to answer within thirty days shall be deemed an admission of the allegations of the Complaint.

21. A written answer to the Complaint, Compliance Order and Notice of Opportunity for Hearing must conform to the requirements of Neb. Admin. Code, Title 115, Rules of Practice and Procedure. The answer and request for hearing may be filed by mail to: Jim Macy, Director, State of Nebraska Department of Environment and Energy, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or may be delivered to the Department's Lincoln office located at 1200 N Street, Suite 400, Lincoln, Nebraska.

#### **V. SETTLEMENT CONFERENCE**

22. Whether or not Respondents request a hearing, an informal settlement conference may be requested by writing to Steve Thomas, Attorney, Nebraska Department of Environment and Energy, P.O. Box 98922, Lincoln, Nebraska 68509-8922, or have your attorney make such a request.

23. A request for settlement conference does not extend the thirty (30) day period during which a written answer and request for hearing must be submitted or otherwise delay the final effective date of this Order.

#### **VI. INJUNCTIVE RELIEF AND PENALTY PROVISIONS**

24. The NDEE reserves the right to pursue enforcement in the proper court of law for injunctive relief or to seek civil or criminal penalties for any violations that are the subject of this Complaint, Compliance Order and Notice of Opportunity for Hearing. Nothing in this Complaint, Compliance Order and Notice of Opportunity for Hearing precludes the NDEE from pursuing such enforcement.

Dated this 12<sup>th</sup> day of March, 2021.

BY THE DIRECTOR


  
Jim Macy  
Director

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complain, Compliance Order and Notice of Opportunity for Hearing, was served by certified United States mail, postage prepaid, return receipt requested this 15<sup>th</sup> day of March, 2021, upon the Registered Agents listed below:

Power Sports Nation  
Todd Dickie, Registered Agent  
1206 Sunnydell Lane  
Norfolk, NE 68701  
**USPS Label # 9414811898765897959053**

Dickie Ventures, LLC  
Diane Dickie, Registered Agent  
84853 556<sup>th</sup> Ave  
Norfolk, NE 68701  
**USPS Label # 9414811898765897953273**

  
Lauren Triplett  
Staff Assistant — Legal Division