

BEFORE THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

IN THE MATTER OF)	Case No. 3532
DICKIE VENTURES, LLC)	
and POWER SPORTS NATION, LLC)	CONSENT ORDER
)	
FID #95644)	
)	
Respondents.)	

I. INTRODUCTION

1. The Nebraska Department of Environment and Energy (Department) and Respondents, Power Sports Nation, LLC, (PSN) and Dickie Ventures, LLC, (Dickie Ventures), voluntarily enter into this Consent Order.

2. This Consent Order establishes a schedule for Respondents to comply with the Nebraska Environmental Protection Act, Neb. Rev. Stat. §81-1501, et seq. (Reissue 2014) and the Integrated Solid Waste Management Act, Neb. Rev. Stat. §13-2001, et seq. (Reissue 2012) (the “Acts”) and the rules and regulations promulgated under such Acts. Respondents agree, without making any admissions to liability, to undertake all actions required by the terms and condition of this Consent Order.

3. This Consent Order is the product of an informal settlement conference requested by Respondents and supersedes the Administrative Order for Case No. 3532, issued by the Department on March 12, 2021. Respondents withdraw their Request for a Hearing related to said Administrative Order.

II. JURISDICTION

4. The Department 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 the Acts and all rules and regulations promulgated under such Acts.



5. 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).

6. Respondents admit to the Department's jurisdiction over the subject matter of this Consent Order. Respondents further agree to and will not challenge the jurisdictional allegations of this Consent Order or the Department's authority to issue and enforce this Consent Order. Respondents waive their right to receive a formal complaint and to hearing requirements as provided in Neb. Rev. Stat. §81-1507(2). Respondents agree they will not contest the basis or validity of this Consent Order in any proceeding by the Department to enforce this Consent Order.

III. PARTIES

7. The parties to this Consent Order are the Department and Respondents, and their employees, successors, and assigns. Respondents shall ensure that all contractors hired to perform work required by this Consent Order are informed of applicable requirements.

IV. COMPLAINT

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

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 Department 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 Department employee performed an inspection of the PSN facility. The Department inspector observed the tire pile which PSN had covered in sand to extinguish the fire.

14. On August 5, 2020, the Department 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, the Department extend the compliance date for the proper disposal of ash and waste until December 11, 2020.

16. On February 23, 2021, a Department 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.

17. On March 12, 2021, the Department issued an Administrative Order to Respondents requiring the removal and proper disposal of all waste, ash, and contaminated soil resulting from

the June 16, 2020 fire within 30 days of the Order becoming final and to provide the Department with copies of all disposal and recycling documentation for the work.

V. COMPLIANCE ORDER AND SCHEDULE

18. Respondents agree to dispose of all waste, ash, and contaminated soil resulting from the June 16, 2020 fire in a permitted solid waste management facility by April 30, 2021. Scrap metal may be delivered to a scrap metal recycler.

19. Respondents agree to provide the Department with copies of all disposal and recycling documentation for the work by May 7, 2021.

20. Respondents agree to respond promptly to any written communication by the Department.

VI. SUBMITTALS

21. All documents required to be submitted to the Department pursuant to this Consent 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

VII. SATISFACTION AND COMPLIANCE WITH OTHER LAWS

22. Respondent shall perform and conduct all actions required by this Consent Order in accordance with all applicable local, state, and federal laws, regulations, and permits.

VIII. RESERVATION OF RIGHTS

23. Nothing in this Consent Order shall be construed to sanction any violation of State or Federal law or limit the power and authority of the Department to take or order any action necessary to protect public health, welfare, or the environment or to enforce any provision of the

Acts and any rules, regulations, orders, or permits issued pursuant to such Acts. The Department reserves the right to pursue any other remedies to which it is entitled for violations of this Consent Decree or the underlying violations alleged herein, including penalties or injunctive relief.

IX. NEGATION OF AGENCY RELATIONSHIP

24. Nothing contained in this Consent Order shall be construed to create, either expressly or by implication, the relationship of agency between the Department and Respondent.

X. AMENDMENT

25. This Consent Order may be modified and amended in writing by mutual agreement of the Department and Respondents.

XI. EFFECTIVE DATE

26. This Consent Order shall become effective on the date it is signed by the Director of the Department.

XII. SEVERABILITY

27. If any provision or authority of this Consent Order or the application of the Consent Order to any party or circumstances is held by any judicial or administrative authority to be invalid, the remainder of the Consent Order shall remain in force and shall not be affected thereby.

XIII. SIGNATURES

For the Respondents: The undersigned representatives of Power Sports Nation, LLC, and Dickie Ventures, LLC, certify that he or she is fully authorized to enter into the terms and conditions of this Consent Order and to bind the respective Respondent.

For Power Sports Nation, LLC:

By: Todd Dickie

Title: President

Date: 4-28-21

For Dickie Ventures, LLC:

By: Todd Dickie

Title: Agent

Date: 4-28-21

For the Department: IT IS ORDERED and agreed this 11th day of ~~April~~ May, 2021.

By: Jim Macy
Jim Macy
Director
Department of Environment and Energy