

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)
)
PURCELL TIRE & RUBBER COMPANY) **No. APCP-2023-038**
)
)
Proceeding Under the)
Missouri Air Conservation Law)

ADMINISTRATIVE ORDER ON CONSENT

NOTICE TO THE RESPONDENT

The issuance of this Administrative Order on Consent No. APCP-2023-038 (Order) by the Missouri Department of Natural Resources (Department) is a formal administrative action by the State of Missouri and is being issued because PURCELL TIRE & RUBBER COMPANY(Respondent) is in violation of Missouri Air Conservation Law, Chapter 643, of the Revised Statutes of Missouri (RSMo), and its implementing regulations. This Order is issued under Sections 643.060(4), 643.080, and 643.085, RSMo. Failure to comply with this Order is, by itself, a violation of the Missouri Air Conservation Law under Section 643.151.3, RSMo.

FINDINGS OF FACT

1. PURCELL TIRE & RUBBER COMPANY is a for-profit corporation registered and in good standing with the Missouri Secretary of State.
2. The Respondent owns and operates a tire processing installation located at 301 North Hall Street, Potosi, Washington County, Missouri.

3. The Respondent operates subject to Missouri Air Conservation Regulation 10 CSR 10-6.065, "Operating Permits," and Intermediate Operating Permit No. OP2018-047, which requires the Respondent to submit a complete application for renewal of the operating permit at least six months before the date of permit expiration. In no event shall this time be greater than eighteen months.

4. The Respondent's Intermediate Operating Permit No. OP2018-047 expired on July 31, 2023. The renewal application was due by January 31, 2023. The Respondent failed to submit a renewal application by January 31, 2023.

5. The Respondent's renewal application was received on February 15, 2023, and deemed complete on April 11, 2023, upon receipt of payment. The Air Pollution Control Program's Permits Section is currently evaluating permit renewal application for Intermediate Operating Permit No. OP2018-047.

6. On August 14, 2023, the Department issued Referral Notice of Violation (RNOV) No. AP23016 to the Respondent to document the violation identified in Paragraph 4.

7. The amount of the administrative penalty is assessed according to the criteria of 10 CSR 10-6.230, "Administrative Penalties." From a gravity-based analysis, it has been determined the violation of 10 CSR 10-6.065 is a moderate potential for harm and a moderate extent of deviation from the requirement. The violation of 10 CSR 10-6.065 by the Respondent on January 31, 2023, was a moderate potential for harm because failing to submit the intermediate operating permit renewal application at least six months prior to the permit expiration does not ensure enough time for the Department to adequately evaluate the application, and was a moderate extent of deviation because the

Respondent's permit expired on July 31, 2023, and the Respondent is currently operating without a valid permit. Using the gravity-based matrix and finding the extent of deviation as moderate and the potential for harm as moderate, and considering adjustment factors including fairness and equity, the assessed penalty is \$3,750.

STATEMENT OF VIOLATIONS

The Department finds that the following violations of the Missouri Air Conservation Law, Chapter 643, RSMo, and its implementing regulations have occurred, thereby subjecting the Respondent to penalties as described in Sections 643.151 and 643.085, RSMo:

8. On January 31, 2023, the Respondent failed to submit a complete operating permit renewal application at least six months prior to permit expiration, in violation of 10 CSR 10-6.065, "Operating Permits."

AGREEMENT

9. The Department and the Respondent desire to amicably resolve all claims that the Department might bring against the Respondent for violation of the Missouri Air Conservation Law and regulations described above and within RNOV No. AP23016. The Department and the Respondent agree that this Order resolves only the specific violations described herein, that this Order shall not be construed as a waiver or a modification of any requirements of the Missouri Air Conservation Law and regulations or any other source of law, and that this Order does not resolve any claims based on any failure by the Respondent to meet the requirements of this Order, or claims for past, present, or future violations of any statutes or regulations other than those specifically referenced herein.

10. The provisions of this Order apply to and bind the parties executing this Order, their agents, subsidiaries, successors, assigns, affiliates, and lessees, including the officers, agents, servants, corporations and any persons acting under, through, or for the parties agreeing hereto. Any changes in ownership or corporate status, including but not limited to any transfer of assets or real or personal property, do not affect the responsibilities of the Respondent under this Order. If the Respondent sells or otherwise transfers its business or the real estate that is the situs of the violation referenced in this Order, then the Respondent shall cause as a condition of such sale or transfer, that the buyer will assume the obligations of the Respondent under this Order in writing. In such event, the Respondent shall provide 30 days prior written notice of such assumption to the Department.

11. The Respondent agrees to comply with the Missouri Air Conservation Law and regulations and, in particular, to refrain from further violations of 10 CSR 10-6.065, for all future operations.

PENALTY

12. To resolve the violation listed under Statement of Violations, the Respondent agrees to a penalty in the amount of \$3,750, of which shall be paid by **certified check** made payable to the "Washington County Treasurer, as trustee for the Washington County School Fund." The penalty is reduced to \$3,000 (80 percent of the assessed penalty) based on payment received within 30 days of the date the Order is sent to the Respondent and the expectation of the Respondent's full participation in the conference, conciliation, and persuasion process. The penalty shall be paid by **certified check**. The Respondent shall mail such payment along with the signed Order to:

Accounting Program
Missouri Department of Natural Resources
P.O. Box 477
Jefferson City, MO 65102-0477

CORRECTIVE ACTIONS BY RESPONDENT

To resolve the remaining violation, the Respondent agrees to and will complete to the Department's satisfaction, the following schedule of compliance:

13. The Respondent must cooperate with the Department of Natural Resources' Air Pollution Control Program's Permits Section for the timely issuance of the renewal intermediate operating permit.

14. The Respondent must continue to operate under the authority of Intermediate Operating Permit No. OP2018-047, subject to all permit conditions and requirements, until the renewal permit is issued. Failure to comply with all conditions outlined in Intermediate Operating Permit No. OP2018-047 constitutes a violation of this Order and violation of the Missouri Air Conservation Law and regulations.

OTHER PROVISIONS

15. This Order resolves the claims of the Department for the specific violations and concerns stated herein through the effective date of this Order.

16. The Department reserves all legal and equitable remedies available to enforce the provisions of this Order. This Order shall not be construed to limit the rights of the Department to obtain penalties or injunctive relief under the Clean Air Act, the Missouri Air Conservation Law or the implementing regulations, or under other federal or state laws, regulations, or permit conditions. The Department further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the

public health or welfare of the environment arising at, or posed by the Respondent, whether related to the violations addressed in this Order or otherwise.

17. By signing this Order, all signatories assert that they have read and understand the terms of this Order, that they had the opportunity to consult with counsel, and that they have the authority to sign this Order on behalf of their respective parties.

18. This Order shall be construed and enforced according to the laws of the State of Missouri, and the terms stated herein shall constitute the entire and exclusive agreement of the parties hereto with respect to the matters addressed herein. This Order may not be modified orally.

19. If any provision of this Order is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

20. Penalty payments under this Order, including any stipulated penalties, are penalties within the meaning of Section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), and 26 C.F.R. § 1.162-21(a)(3)(i). For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2)(iii)(A), certain costs incurred by performance of this Order may qualify as restitution, remediation, or costs required to come into compliance with the law. **PURCELL TIRE & RUBBER COMPANY** is solely responsible for providing to the Department complete, accurate, and necessary information by the close of any applicable tax year to complete a Form 1098-F. Further, the Department shall not be responsible for any incomplete or inaccurate information nor the results of any tax audit. No portion of any penalties paid pursuant to

this Order may be used to reduce any federal or state tax obligations, except as authorized by the Internal Revenue Service.

21. Nothing in this Order excuses the Respondent for any future non-compliance with the laws of the State of Missouri, and the Department expressly reserves the right to address future noncompliance in any manner authorized by law.

22. This Order will become final, effective, and fully enforceable upon the date the Department signs it. The Department shall send a fully executed copy of this Order to the Respondent for their records.

CORRESPONDENCE AND DOCUMENTATION

Correspondence or documentation with regard to this Order shall be directed to the following persons, subject to change upon written notification from either party:

For the Department:

Gabrielle Caldwell
Compliance and Enforcement Section
Air Pollution Control Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

For the Respondent:

Roger Lucas
President
Purcell Tire & Rubber Company
301 N Hall St
P.O. Box 100
Potosi, MO 63664

CHECK NO. 8284510285
CHECK RECEIVED 10/21/2024
CHECK DATE 10/16/2024
CHECK AMOUNT 3000.20

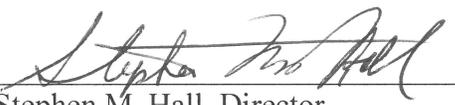
RECEIVED
2024 OCT 21 AM 11:54
AIR POLLUTION
CONTROL PGH

RIGHT OF APPEAL

By signing this Order, the Respondent waives any right to appeal, seek judicial review, or otherwise challenge this Order pursuant to Sections 643.130, 643.085, or 621.250, RSMo, Chapters 536, 643, or 640, RSMo, 10 CSR 10-1.030, or any other source of law.

AGREED TO AND ORDERED:

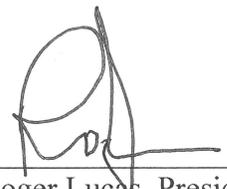
**MISSOURI DEPARTMENT OF
NATURAL RESOURCES**



Stephen M. Hall, Director
Air Pollution Control Program

Date: 10/22/2024

PURCELL TIRE & RUBBER COMPANY



Roger Lucas, President
PURCELL TIRE & RUBBER COMPANY

Date: 10/14/2024