

STATE OF COLORADO

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH
Executive Director and Chief Medical Officer

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S. Laboratory Services Division
Denver, Colorado 80246-1530 8100 Lowry Blvd.
Phone (303) 692-2000 Denver, Colorado 80230-6928
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<http://www.cdphe.state.co.us>



Colorado Department
of Public Health
and Environment

November 7, 2012

Richard Kinsley Welle III, Registered Agent
Used Tire Exchange, Inc.
P.O. Box 184
Sedalia, CO 80135

Certified Mail Number: 7010 2780 0002 8752 3345

RE: Expedited Settlement Agreement, Number: ES-121106-1

Dear Mr. Welle:

Enclosed for your records you will find Used Tire Exchange, Inc's copy of the recently executed Expedited Settlement Agreement ("ESA"). Please be advised that the first page of the ESA was changed in order to place the correct ESA Number on the final document. The ESA is now fully enforceable and constitutes a final agency action.

As specified in the enclosed ESA, Used Tire Exchange, Inc. must, within fifteen (15) calendar days, submit a certified or cashier's check for the amount specified in the ESA to the Water Quality Control Division in order for this matter to be resolved.

If you have any questions, please don't hesitate to contact me at (303) 692-3598 or by electronic mail at michael.harris@state.co.us.

Sincerely,

Michael Harris, Interim Unit Manager
Clean Water Compliance & Enforcement Unit
WATER QUALITY CONTROL DIVISION

cc: Tom Butts, Tri-County Health Department

cc: Natasha Davis, EPA Region VIII
Nathan Moore, Permits Section, CDPHE

Enclosure(s)



Colorado Department of Public Health & Environment
Water Quality Control Division

EXPEDITED SETTLEMENT AGREEMENT

Number: EI-121106-1

The Colorado Department of Public Health and Environment ("Department"), through the Water Quality Control Division ("Division"), issues this Expedited Settlement Agreement ("ESA"), pursuant to the Division's authority under §§ 25-8-602, 25-8-605 and 25-8-608, C.R.S., of the Colorado Water Quality Control Act (the "Act") §§ 25-8-101 to 803, C.R.S., and its implementing regulations, with the express consent of Used Tire Exchange, Inc. (d/b/a Front Range Tire Recycle, Inc.) ("Used Tire Exchange"). The Division and Used Tire Exchange may be referred to collectively as "the Parties."

1. Used Tire Exchange is a "person" as defined under the Water Quality Control Act, § 25-8-103(13), C.R.S., and its implementing permit regulation, 5 CCR 1002-61, § 61.2(73).
2. Used Tire Exchange is conducting waste tire recycling activities at its facility located at 5765 N. Peterson Road, Sedalia, Douglas County, Colorado (the "Facility").
3. The Division has determined that Used Tire Exchange failed to obtain coverage for the Facility under a Colorado Discharge Permit System ("CDPS") permit for stormwater discharges associated with industrial activity, in violation of § 25-8-501(1), C.R.S., and its implementing permit regulations, 5 CCR 1002-61, §§ 61.3(1)(a), 61.3(2) and 61.4(3).
4. The parties enter into this ESA in order to resolve the matter of civil penalties associated with the violation(s) alleged herein for a penalty of \$8,000.00.
5. By accepting this ESA, Used Tire Exchange neither admits nor denies the violations or deficiencies specified herein.
6. Used Tire Exchange certifies that it has applied for or obtained coverage for the Facility under the CDPS General Permit for Stormwater Discharges Associated with Non-Extractive Industrial Activity, Number: COR-900000 (the "Permit"), and Used Tire Exchange agrees that within thirty (30) calendar days of receiving the signed and final ESA from the Division, Used Tire Exchange shall submit to the Division 1) a written certification that the Facility is in compliance with the terms and conditions of the Permit and 2) photographs documenting the Best Management Practices implemented at the Facility.
7. Used Tire Exchange agrees to the terms and conditions of this ESA. Used Tire Exchange agrees that this ESA constitutes a notice of alleged violation and an order issued pursuant to §§ 25-8-602, 25-8-605 and 25-8-608, C.R.S., and is an enforceable requirement of the Act. By signing the ESA, Used Tire Exchange waives: (1) the right to contest the finding(s) specified herein; and, (2) the opportunity for a public hearing pursuant to § 25-8-603, C.R.S.

8. This ESA is subject to the Division's "Public Notification of Administrative Enforcement Actions Policy," which includes a thirty-day public comment period. The Division and Used Tire Exchange each reserve the right to withdraw consent to this ESA if comments received during the thirty-day period result in any proposed modification to the ESA.
9. This ESA constitutes a final agency order or action upon the date when the Executive Director or his designee signs the ESA and effectively imposes the civil penalty.
10. Used Tire Exchange agrees that within fifteen (15) calendar days of receiving the signed and final ESA from the Division, Used Tire Exchange shall submit a certified or cashier's check drawn to the order of the "Colorado Department of Public Health and Environment," for the amount specified in paragraph 4 above, to:

Russell Zigler
 Colorado Department of Public Health and Environment
 Water Quality Control Division
 Mail Code: WQCD-CAS-B2
 4300 Cherry Creek Drive South
 Denver, Colorado 80246-1530

11. Notwithstanding paragraph 5 above, the violations described in this ESA will constitute part of Used Tire Exchange's compliance history for purposes where such history is relevant. This includes considering the violations described above in assessing a penalty for any subsequent violations against Used Tire Exchange. Used Tire Exchange agrees not to challenge the use of the cited violations for any such purpose.
12. This ESA, when final, is binding upon Used Tire Exchange and its corporate subsidiaries or parents, their officers, directors, employees, successors in interest, and assigns. The undersigned warrant that they are authorized to legally bind their respective principals to this ESA.

ACCEPTED BY USED TIRE EXCHANGE, INC.:

	7-18-12
Signature	Date

Richard Welle III	Pres + OWNER
Name (printed)	Title

FOR THE COLORADO DEPARTMENT OF PUBLIC HEALTH & ENVIRONMENT:

	Date: 11/6/12
Steven H. Gunderson, Director WATER QUALITY CONTROL DIVISION	