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**STATE OF LOUISIANA**

**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**IN THE MATTER OF:**

**KIRK'S TIRE AND ACCESSORIES**

**PROCEEDINGS UNDER THE LOUISIANA  
ENVIRONMENTAL QUALITY ACT  
LA. R.S. 30:2001, ET SEQ.**

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**Tracking Number:  
SE-P-97-0194  
Docket Number:  
98-001-EQ**

**SETTLEMENT**

The following Settlement is hereby agreed to between Kirk's Tires and Accessories, Inc. (Respondent) and the Department of Environmental Quality, (Department), under authority granted by the Louisiana Environmental Quality Act, LSA- R.S. 30:2001, et seq., (the "Act").

**I.**

Respondent owns and operates a retail tire store located at 9555 Airline Highway, Baton Rouge, Louisiana, the Respondent's establishment operates under Louisiana Department of Environmental Quality Solid Waste Facility Number RS-033-4038.

**II.**

The allegations which form the basis of the enforcement action(s) are:

The Respondent failed to file appropriate waste tire reports and remit waste tire fees for the third and fourth quarter of 1993, as well as, the third quarter of 1994 in violation of LAC 33:VII.10521.A;

Further, the Respondent failed to file appropriate reports and remit waste tire fees from October 1994, through March 1997 in violation of LAC 33:VII.10519.D.

III.

On November 18, 1997, a Penalty Assessment in the amount of Seven Thousand Nine Hundred Eighty-One and 68/100 Dollars (\$7,981.68) was issued to Respondent and, in response thereto, Respondent made a timely request for a hearing.

IV.

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

V.

Nonetheless, the Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of Three Thousand Nine Hundred Ninety and 84/100 (\$3,990.84) in settlement of the claims set forth in this agreement.

VI.

Respondent further agrees that the Department may consider the inspection report(s), the Penalty Assessment and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action the Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VII.

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act.

VIII.

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in East Baton Rouge Parish. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX.

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Department of Environmental Quality, Post Office Box 82231, Baton Rouge, Louisiana, 70884-2231.

X.

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

**STATE OF LOUISIANA**

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**Tracking Number:**

**SE-P-97-0194**

**Docket Number:**

**98-001-EQ**

This Settlement Agreement has been reviewed, and is concurred in, by the Attorney General, under the provisions of La. R.S. 30:2050.7.

**RICHARD P. IEYOUB  
ATTORNEY GENERAL**

DATED:

*July 18, 2002*

BY:

*[Signature]*  
**ASSISTANT ATTORNEY GENERAL**

XI.

The person signing for the Respondent and the Department both represent that they have the requisite authority to sign for the party.

WITNESSES:

Stephanie Perrot  
[Signature]

RESPONDENT

BY: [Signature]

NAME: Amy E. Counce

TITLE: Attorney for Kirk's

THUS DONE AND SIGNED before me this 1st day of April 2002, in Baton Rouge, Louisiana

[Signature]  
NOTARY PUBLIC

WITNESSES:

[Signature]  
Honey Smith

STATE OF LOUISIANA  
J. Dale Givens, Secretary  
Dept. of Environmental Quality

BY: [Signature]  
R. Bruce Hammatt, Assistant Secretary  
Office of Environmental Compliance

THUS DONE AND SIGNED before me this 25th day of July, 2002 in Baton Rouge, Louisiana.

[Signature]  
NOTARY PUBLIC

Approved: [Signature]  
R. Bruce Hammatt, Assistant Secretary