

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
by KWAME RAOUL, Attorney)	
General of the State of Illinois,)	
)	
Plaintiff,)	
)	
v.)	No. PCB 22-65
)	
SOUTH SIDE EQUIPMENT, INC.,)	(Enforcement-Land)
an Illinois corporation, and ILLINOIS)	
TIRE RECYCLING CORPORATION,)	
an Illinois corporation,)	
)	
Respondents.)	

NOTICE OF FILING

To: Persons on Attached Service List
(VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement, true and correct copies of which are attached hereto and hereby served upon you.

KWAME RAOUL
Attorney General
State of Illinois

/s/ Kevin Garstka
Kevin Garstka, AAG

Dated: November 21, 2022

Kevin Garstka
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
(773) 590-7029
Primary e-mail address: Kevin.Garstka@ilag.gov

SERVICE LIST

Bradley Halloran
Hearing Officer
Illinois Pollution Control Board
60 E. Van Buren Street, Suite 630
Chicago, IL 60605
Brad.Halloran@illinois.gov
(Via Email Only)

Pedro Bonilla, Registered Agent
South Side Equipment Inc.
1 Westbrook Corporate Center, Suite 300
Westchester, IL 60154
(Via Certified Mail)

Daniel A. Rossini, Registered Agent
Illinois Tire Recycling Corporation
1 Westbrook Corporate Center, Suite 300
Westchester, IL 60154
(Via Certified Mail)

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served on the date of 21st of November, 2022, the attached Notice of Filing, Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement upon the persons listed on the foregoing Service List by methods described.

/s/ Kevin Garstka

Kevin Garstka

Assistant Attorney General

Environmental Bureau

Illinois Attorney General's Office

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MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2020), moves that the Illinois Pollution Control Board (“Board”) grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2020). In support of this motion, Complainant states as follows:

1. The Complaint in this matter alleges violations of Sections 55(a)(4) and (e), 55(k)(1), and 31(a)(7.6) of the Act, 415 ILCS 5/55(a)(4) and (e), 55(k)(1), and 31(a)(7.6) (2020), and Sections 848.202(a)(1)(B)-(C) and 848.202(a)(3) of the Board Tire Regulations, 35 Ill. Adm. Code 848.202(a)(1)(B)-(C) and 848.202(a)(3).
2. Complainant filed the Complaint on April 25, 2022.
3. The parties have reached agreement on all outstanding issues in this matter.
4. This agreement is presented to the Board in a Stipulation and Proposal for Settlement.

5. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2020).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2020).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL
Attorney General
State of Illinois

BY: /s/ Kevin Garstka
Kevin Garstka
Assistant Attorney General
Environmental Bureau
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Secondary e-mail address: Maria.Cacaccio@ilag.gov

DATE: November 21, 2022

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General of the State of Illinois,)	
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STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), and SOUTH SIDE EQUIPMENT, INC., an Illinois corporation (“South Side”), and ILLINOIS TIRE RECYCLING CORPORATION, an Illinois corporation (“Illinois Tire Recycling”), (“Respondents”) (collectively “Parties to the Stipulation”), have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1, et seq. (2020), and the Board’s regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. On April 25, 2022, a Complaint was filed on behalf of the People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2020), against Respondents.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2020).

3. At all times relevant to the Complaint, South Side was and is an Illinois corporation that is authorized to transact business in the State of Illinois.

4. At all times relevant to the Complaint, Illinois Tire Recycling was and is an Illinois corporation that is authorized to transact business in the State of Illinois.

5. At all times relevant to the Complaint, South Side owned and Illinois Tire Recycling operated a tire recycling facility ("Facility") located at 4845 West Ogden Avenue, Cicero, Cook County, Illinois ("Site").

6. As of the date of filing of this Stipulation, the Site is located in an area of Environmental Justice ("EJ") concern as identified using Illinois EPA EJ Start.

B. Allegations of Non-Compliance

Complainant contends that Respondents have each violated the following provisions of the Act and Board Tire Regulations:

Count I: Violation of Tire Management Standards, in violation of Sections 55(a)(4) and (e) of the Act, 415 ILCS 5/55(a)(4) and (e) (2020), and Sections 848.202(a)(1)(B)-(C) of the Board Tire Regulations, 35 Ill. Adm. Code 848.202(a)(1)(B)-(C);

Count II: Water Accumulation in Used Tires, in violation of Section 55(k)(1) of the

Act, 415 ILCS 5/55(k)(1) (2020), and Section 848.202(a)(3) of the Board Tire Regulations, 35 Ill. Adm. Code 848.202(a)(3); and

Count III: Violation of Compliance Commitment Agreement, in violation of Section 31(a)(7.6) of the Act, 415 ILCS 5/31(a)(7.6) (2020).

C. Non-Admission of Violations

Respondents each represent that they have entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, Respondents do not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

D. Compliance Activities to Date

On or before March 10, 2022, Respondents moved all tires indoors at the Site.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. Respondents shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of their officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against Respondents in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2020).

III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (2020), provides as follows:

In making its orders and determinations, the Board shall take into consideration all

the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. Human health and the environment were threatened and the Illinois EPA's information gathering responsibilities hindered by Respondents' violations.
2. There is social and economic benefit to the Facility.
3. Operation of the Facility was and is suitable for the area in which it is located.
4. Compliance with tire management standards is both technically practicable and economically reasonable.
5. Respondents have each subsequently complied with the Act and the Board regulations.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2020), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in

attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;

3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a 'supplemental environmental project,' which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. Respondents failed to comply with tire management standards and their Compliance Commitment Agreements ("CCAs") with Illinois EPA. The violations began on February 21, 2019, and were resolved by Respondents moving tires indoors at the Site on or before March 10, 2022.
2. Respondents were diligent in attempting to come back into compliance with the Act and Board regulations once the Illinois EPA notified them of their noncompliance.
3. The civil penalty takes into account any economic benefit realized by Respondents as a result of avoided or delayed compliance.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Eight Thousand Dollars (\$8,000.00), to be paid jointly and severally amongst Respondents, will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations. Pursuant to Section 42(k) of the Act, 415 ILCS 5/42(k) (2020), this penalty includes a penalty in the amount of Two Thousand Dollars (\$2,000.00) due to Respondents' violation of their CCAs, or violation of Section 31(a)(7.6) of the Act, 415 ILCS 5/31(a)(7.6) (2020).

5. To Complainant's knowledge, Respondents have no previously adjudicated violations of the Act.

6. Self-disclosure is not at issue in this matter.

7. The settlement of this matter does not include a supplemental environmental project.

8. On June 14, 2019, each of the Respondents and Illinois EPA entered into a Compliance Commitment Agreement ("CCA"). On July 2, 2020, each of the Respondents violated Section III.5(a)(i) of their CCAs.

V. TERMS OF SETTLEMENT

A. Penalty Payment

Respondents shall jointly and severally pay a civil penalty in the sum of Eight Thousand Dollars (\$8,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Interest and Default

1. If Respondents fail to make any payment required by this Stipulation on or before the date upon which the payment is due, Respondents shall be in default and the remaining unpaid

balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2020), interest shall accrue on any penalty amount owed by Respondents not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

C. Payment Procedures

1. All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Kevin Garstka
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon Respondents' Site which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

2. This Stipulation in no way affects the responsibilities of Respondents to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

3. Respondents shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

E. Release from Liability

In consideration of Respondents' payment of the \$8,000.00 penalty, their commitment to cease and desist as contained in Section V.D.3 above, and upon the Board's approval of this Stipulation, Complainant releases, waives and discharges Respondents from any further liability or penalties for the violations of the Act and Board regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on April 25, 2022. Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against Respondents with respect to all other matters, including but not limited to, the following:

- a. criminal liability;

- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on Respondents' failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than Respondents.

F. Enforcement of Stipulation

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

G. Execution of Stipulation

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

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WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

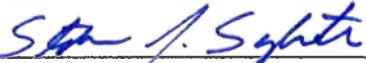
FOR COMPLAINANT:

PEOPLE OF THE STATE OF ILLINOIS
KWAME RAOUL
Attorney General
State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

JOHN J. KIM, Director
Illinois Environmental Protection Agency

BY: 
STEPHEN J. SYLVESTER, Chief
Environmental Bureau
Assistant Attorney General

BY: 
CHARLES W. GUNNARSON
Chief Legal Counsel

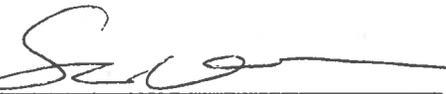
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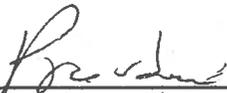
FOR RESPONDENTS:

SOUTH SIDE EQUIPMENT, INC.

ILLINOIS TIRE RECYCLING CORPORATION

BY: 

BY: 

ITS: 

ITS: President

DATE: 11/7/22

DATE: 11/7/22

People v. South Side Recycling Equipment, Inc., and Illinois Tire Recycling Corporation, PCB 22-65