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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	AC 04-27
)	
v.)	
)	(IEPA No. 686-03-AC)
DOUGLAS S. CARRICO, d/b/a/)	
CARRICO'S AUTO HEAP,)	
)	
Respondent.)	

POST-HEARING BRIEF OF RESPONDENT

The question before us is whether I, Douglas S. Carrico d/b/a Carrico's Auto Heap allowed open dumping of waste resulting in litter and various vehicles, auto parts, and tires on my property illegally?

I will show it was not dumping, it was not waste, it was not litter and it was not illegal.

- I. For 18 years I held two licenses which legally allowed me to operate a Scrap Processing business and an Automotive Parts Recycling business. Illinois Vehicle Code, 625 ILCS 5/5-100 defines my business license operations under, "Automotive Parts Recycler" and "Scrap Processor". In short it allows a licensee to accumulate scrap automobiles, auto parts, ferrous and non-ferrous metallic scrap for processing. The business was in operation at the same location from March 1994 to August 2002 there about. During this time I purchased product which consisted of metals and car bodies for the purpose of recycling. All the items mentioned by the EPA inspector and described as waste and litter, such as auto parts, plastic, glass, metal, rusted pipe, etc... were in fact product or by product of the legally licensed business of Carrico's Auto Heap. Without exception these same items would be found on the property of every Auto Parts

Recycling / Scrap Processing business in the state of Illinois and under the definition given in their brief every license holder is in violation. The entire product remaining was purchased during the time I was legally licensed to do so. (See Page 13, Lines 10-12 hearing transcript) where Ms. Mier states a licensee can accept product legally. As you can see by reading through the letter's from the EPA, (Exhibits 1-6) there was never any mention of additional items added, after I was no longer licensed, other than a school bus which was actually here all along and recorded in the daily records of the business showing its purchase in 1990 and was apparently just overlooked in prior inspections.

- II. I was always willing to do what was requested of me, as quickly as circumstances allowed, to solve the concerns raised by the EPA, (See Page 12, Lines 17-22 hearing transcript).
- III. The tire removal was the most pressing matter in view of the EPA, (See Page 44, Lines 4-7 hearing transcript). I focused therefore on the tire removal, but not to the exclusion of the other concerns. The hearing transcript, as pointed out in the EPA brief, had recorded me as saying I had not started the clean up process after the first inspection, which was either stated or else, recorded in error. Actually I immediately contacted several metal dealers of who only two came out and met with me and one, after several calls finally came and started the removal on October 15, 2002. I was under the impression I had entered into a tire removal agreement with the EPA since Exhibit 3, page 8, item 1 asked me to submit one which I did and it was accepted by them as stated in Exhibit 4, page 1. In their letter. In Exhibit 3, page 8, item 1, there is also a reference to the 35 IAC that I quoted from in the April 7 hearing, (Page 46, Lines 5-24 hearing transcript). This

document states that a site containing more than 1,000 tires can have 2 years to remove the tires and be granted an extension above that. I was not allowed to introduce this into evidence due to Ms. Ryan's concern of the foundation of this document, (Page 50, Lines 6-10 hearing transcript).

Exhibit 3, Page 8, item 1 addresses the foundation of this document in question by EPA's reference to and enclosure with their letter.

- IV. I've included a comprehensive list, the totals of which I compiled from the 45 receipts of product removed. (Not included in these totals are a conservative estimate of 15 loads, that I never received receipts for, which went to MAW Salvage) This is the time covered from the first contact I had from the EPA (Exhibit 2) dated July 24 2002 to the last inspection of October 28, 2003 which I believe shows my ongoing compliance with the EPA requirements:

- a. 6,110 tires
- b. 12.75 tons of waste
- c. 410,043.08 lbs. of metal (45 loads) which included approx. 400 car bodies

The amount of product still on site at the time of the last inspection was a small amount in comparison to what had actually been removed to that point in the ongoing process of clean up.

- V. The EPA brief also charges:

1. "I did not heed the warnings"

- a. I believe I did and this fact is witnessed by the amount of product that had been removed up to that point.

2. "I failed this situation" (using my analogy of a student page 27 lines 7-17)

a. However I was unaware the "school year was over". I really
thought Ms. Mier would contact me by phone or in person before
any fines were imposed.

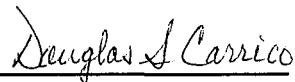
3. "I caused or allowed open burning"

a. This was never charged.

VI. I ask that the fine be dismissed due to the facts that have been presented showing
my ongoing compliance with the requests that the EPA have given me and the
fact that all the product on site was collected while licensed to do so legally.

Respectfully Submitted,

Dated: May 28, 2004



Douglas s. Carrico
Representing Self

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