## ILLINOIS POLLUTION CONTROL BOARD February 19, 2004

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	)	
V.	)	PCB 04-08
GREG PREY, individually and d/b/a KING TIRE,	)	(Enforcement - Land)
Respondent.	)	

## OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On July 14, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Greg Prey, individually and doing business as King Tire (Prey). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that Prey violated Sections 21(k); 55(a)(4), (d)(1), (e), and (g); and 55.6(b) of the Environmental Protection Act (Act) (415 ILCS 5/21(k), 55(a)(4), (d)(1), (e), and (g), and 55.6(b) (2002)) and 35 Ill. Adm. Code 848.202(b)(1), (b)(2), (b)(4), (b)(5) and 848.601(a). The People further allege that Prey violated these provisions by storing more than 50 used tires and up to 2,400 new, used, and waste tires without registering as a tire storage site and paying the annual fee, by storing used tires in violation of established standards for storage of used tires, and by transporting used tires in a vehicle bearing expired transported placards. The complaint concerns Prey's tire retail facility located at 237 First Street, LaSalle, LaSalle County.

On January 12, 2004, the People and the Prey filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act. 415 ILCS 5/31(c)(1) (2002). This filing is authorized by Section 31(c)(2) of the Act. 415 ILCS 5/31(c)(2) (2002). See 35 III. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in *The NewsTribune* on January 15, 2004. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. See 415 ILCS 5/31(c)(2) (2002); 35 III. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of respondents' operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act. 415 ILCS 5/33(c) (2002). The People and Prey have satisfied Section 103.302. Prey admits the violations as alleged in the complaint, and agrees to pay a civil penalty of \$5,000. The Board accepts the stipulation and proposed settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.

## **ORDER**

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. Greg Prey (Prey) must pay a civil penalty of \$5,000. The first payment must be made no later than March 22, 2004, which is the first business day following the 30th day after the date of this order. The remaining \$2,500 must be paid in two (2) quarterly installments of \$1,250, the first being due no later than June 21, 2004, being four (4) months after the date of this order. The second, and final, payment of \$1,250 is due on or before September 20, 2004, being seven (7) months after the date of this order. Prey must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency, designated for deposit into the Environmental Protection Trust Fund. The case number, case name, and Prey's social security number or federal employer identification number must be included on the certified check or money order.
- 3. Prey must send the certified check or money order to:

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

4. A copy of the certified check or money order, and all related correspondence must be sent by first class mail to:

Paula Becker Wheeler Assistant Attorney General Environmental Bureau 188 West Randolph, 20<sup>th</sup> Floor Chicago, Illinois 60601

- 5. If Prey fails to make any payment specified in paragraph 2, he will be in default and the remaining unpaid balance of the penalty, plus any accrued interest, will be due and owning immediately. In the event of default, the People will be entitled to reasonable costs of collection, including reasonable attorney's fees.
- 6. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).

- 7. All interest on penalties owed must by paid in accordance with the procedures set forth in paragraphs 2, 3 and 4 of this order.
- 8. The People will have right of entry into and upon Prey's facility at all reasonable times for the purposes of carrying out inspections.
- 9. Prey must cease and desist from future violations of the Act and Board regulations.
- 10. The People will release, waive and discharge Prey from any further liability or penalties for the violations of the Act and regulations which were the subject matter of the complaint, upon payment of all monies owed.

## IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2002); see also 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; see also 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 19, 2004, by a vote of 5-0.

Dorothy M. Gunn, Clerk Illinois Pollution Control Board