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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JUN 29 2004

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
by LISA MADIGAN, Attorney General )  
of the State of Illinois, )

Complainant, )

v. )

P & J SUPER AUTO BODY SHOP, INC. )  
an Illinois Corporation, and JULIO )  
GALLEGOS, an Illinois resident, )

Respondent. )

PCB No. 04-226  
(Enforcement)

**NOTICE OF FILING**

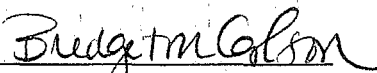
TO: Mr. Julio Gallegos  
P&J Super Auto Body, Inc.  
6809 North Clark Street,  
Chicago, Illinois

Mr. Julio Gallegos  
4200 West Palmer Street  
Chicago, Illinois 60639

PLEASE TAKE NOTICE that I have today filed the Complaint with the Office of the Clerk of the Illinois Pollution Control Board, a true and correct copy of which is attached hereto and herewith served upon you. Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to advise you that failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney. Pursuant to 415 ILCS 5/31(c)(1), I am required to advise you that financing may be available through the Illinois Environmental Facilities Financing Act to correct the violations.

PEOPLE OF THE STATE OF ILLINOIS,  
by LISA MADIGAN, Attorney General  
of the State of Illinois

BY:

  
BRIDGET M. CARLSON  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph Street, Suite 2001  
Chicago, Illinois 60601  
(312) 814-0608

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STATE OF ILLINOIS  
Pollution Control Board

ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
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 Complainant, )  
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 P & J SUPER AUTO BODY SHOP, INC. )  
 an Illinois Corporation, and JULIO )  
 GALLEGOS, an Illinois resident, )  
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 Respondent. )

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 No. 04-226  
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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), complains of Respondent, P & J SUPER AUTO BODY SHOP, INC. and JULIO GALLEGOS, as follows:

**COUNT I**

USED TIRE VIOLATIONS

1. This Complaint is brought on behalf of the People of the State of Illinois, *ex rel.* Lisa Madigan, the Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2002).
2. The Illinois EPA is an administrative agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2002), and charged, *inter alia*, with the duty of enforcing the Act.
3. The Respondent, P & J SUPER AUTO BODY SHOP, INC. (P & J), was a corporation in good standing until January 2, 2004 when the corporation was involuntarily

dissolved by the State of Illinois Secretary of State. P & J owns and operates a tire retail business located at 6809 North Clark Street, Chicago, Cook County, Illinois ("Site").

4. The Respondent, JULIO GALLEGOS ("Gallegos"), is and was at all times relevant to this Complaint the owner and operator of P & J. Gallegos is the president and registered agent of P & J, and directs the day-to-day operations of the Site, including the direction and placement of used tires at the Site. Gallegos has personally met and communicated with the Illinois EPA, met and communicated with the Attorney General's Office, and has knowledge of the environmental violations as referenced herein.

5. The Site is an automotive repair services facility and a new and used tire retailer that stores and sells new and used tires. The Respondents also accept tires for recycling.

6. Respondents' operation of the Site is subject to the Act and the Rules and Regulations promulgated by the Illinois Pollution Control Board ("Board").

7. On or before April 24, 2003, or at a time better known to Respondents, the Respondents commenced a retail tire business which stored more than fifty (50) used tires on the premises. The Respondents had not notified the Illinois EPA of this ongoing activity as of the date of an April 2003 Illinois EPA inspection. As of the most recent IEPA inspection on June 4, 2004, Respondents stored approximately 250 used tires on Site.

8. Section 55(c) of the Act, 415 ILCS 5/55(c)(2002), provides, in pertinent part, as follows:

- (c) On or before January 1, 1990, any person who operates a tire storage site or a tire disposal site which contains more than 50 used or waste tires shall give notice of such activity to the Agency. Any person engaging in such activity for the first time after January 1, 1990, shall give notice to the Agency within 30 days after the date of commencement of the activity. The form of such notice shall be specified by the Agency and shall be limited to information regarding the following:

- (1) the name and address of the owner and operator;
- (2) the name, address and location of the operation;
- (3) the type of operations involving used and waste tires (storage, disposal, conversion or processing); and
- (4) the number of used and waste tires present at the location.

9. Section 3.315 of the Act, 415 ILCS 5/3.315 (2002), provides the following definition:

"PERSON" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint-stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent, or assigns.

10. Respondent, P & J is a corporation and is therefore a "person" as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2002). Respondent, Gallegos is an individual and is therefore a "person" as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2002).

11. By failing to notify the Illinois EPA of their operation of tire storage Site within 30 days of commencing their business, Respondents P & J and Gallegos violated Section 55(c) of the Act, 415 ILCS 5/55(c)(2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, requests that the Board enter an order in favor of Complainant and against Respondents, P & J SUPER AUTO BODY SHOP, INC. and JULIO GALLEGOS on this Count I:

1. Authorizing a hearing in this matter, at which time the Respondents will be required to answer the allegations herein;
2. Finding that the Respondents have violated Section 55(c) of the Act, 415 ILCS 5/55(c)(2002);
3. Ordering the Respondents to cease and desist from any further violations of

Section 55(c) of the Act, 415 ILCS 5/55(c)(2002);

4. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of the continued violation;
5. Ordering the Respondents to pay all costs, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

## COUNT II

### FAILURE TO POST WRITTEN NOTICE FOR USED TIRE RECYCLING

- 1-9. Complainant realleges and incorporates herein by reference paragraphs 1 through 7 and paragraphs 9 and 10 of Count I as paragraphs 1 through 9 in this Count II.
10. Beginning at least on April 24, 2003, and continuing to date better known to Respondents, Respondents failed to post a written notice informing customers of the proper method of tire disposal at the Site.
11. Section 55.8(a)(3) of the Act, 415 ILCS 5/55.8(a)(3)(2002), provides, in pertinent part, as follows:

Sec. 55.8. Tire retailers.

- (a) Beginning July 1, 1992, any person selling tires at retail or offering tires for retail sale in this State shall:

\* \* \*

- (3) post in a conspicuous place a written notice at least 8.5 by 11 inches in size that includes the universal recycling symbol and the following statements: "DO NOT put used tires in the trash."; "Recycle your used tires."; and "State law requires us to accept used tires for recycling, in exchange for new tires purchased."

12. By selling tires at retail or offering tires for retail sale in Illinois after July 1, 1992 and failing to post a written notice at least 8.5 by 11 inches in size that includes the universal recycling symbol and informing customers of the proper method of disposing of used tires, the Respondents violated Section 55.8(a)(3) of the Act, 415 ILCS 55.8(a)(3)(2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, requests that the Board enter an order in favor of Complainant and against Respondents, P & J SUPER AUTO BODY SHOP, INC. and JULIO GALLEGOS on this Count II:

1. Authorizing a hearing in this matter, at which time the Respondents will be required to answer the allegations herein;
2. Finding that the Respondents have violated Section 55.8(a)(3) of the Act, 415 ILCS 5/55.8(a)(3)(2002);
3. Ordering the Respondents to cease and desist from any further violations of Section 55.8(a)(3) of the Act, 415 ILCS 5/55.8(a)(3)(2002);
4. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of the continued violation;
5. Ordering the Respondents to pay all costs, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

### COUNT III

#### **ALLOWING USED TIRES TO ACCUMULATE FOR MORE THAN 90 DAYS**

- 1-9 Complainant realleges and incorporates herein by reference paragraphs 1

through 7 and paragraphs 9 and 10 of Count I as paragraphs 1 through 9 in this Count III.

10. Section 55.8(b) of the Act, 415 ILCS 5/55.8(b)(2002), provides, in pertinent part, as follows:

Sec. 55.8. Tire retailers.

(b) A person who accepts used tires for recycling under subsection (a) shall not allow the tires to accumulate for periods of more than 90 days.

11. Respondents accept used tires for recycling. Respondents, as of June 4, 2004, accumulated approximately 250 used tires on-Site. Respondents failed to provide tire accumulation documentation detailing the times when used tires accumulated or documentation detailing times when used tires were removed from the Site by a registered tire transporter.

12. On information and belief, the Respondents have stored used or waste tires on Site for more than 90 days.

13. By storing used or waste tires on the Site for more than 90 days, the Respondents have violated Section 55.8(b) of the Act, 415 ILCS 55.8(b)(2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, requests that the Board enter an order in favor of Complainant and against Respondents, P & J SUPER AUTO BODY SHOP, INC. and JULIO GALLEGOS on this Count III:

1. Authorizing a hearing in this matter, at which time the Respondents will be required to answer the allegations herein;

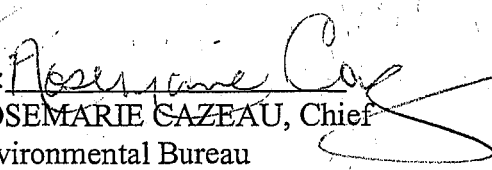
2. Finding that the Respondents have violated Section 55.8(b) of the Act, 415 ILCS 5/55.8(b)(2002);

3. Ordering the Respondents to cease and desist from any further violations of Section 55.8(b) of the Act, 415 ILCS 5/55.8(b)(2002);

4. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of continued violation;
5. Ordering the Respondents to pay all costs, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN, Attorney General  
of the State of Illinois

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

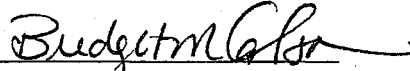
By:   
ROSEMARIE CAZEAU, Chief  
Environmental Bureau  
Assistant Attorney General

Of Counsel:  
Bridget M. Carlson  
Assistant Attorney General  
Environmental Bureau North  
188 W. Randolph St., 20th Floor  
Chicago, Illinois 60601  
(312) 814-0608



**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of the Complaint was sent by certified mail with return receipt requested to each of the persons listed on the Notice of Filing on June 29, 2004.

BY:   
BRIDGET M. CARLSON

It is hereby certified that the originals plus nine (9) copies of the foregoing were hand-delivered to the following person on June 29, 2004:

Pollution Control Board, Attn: Clerk  
James R. Thompson Center  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

BY:   
BRIDGET M. CARLSON