

ILLINOIS POLLUTION CONTROL BOARD  
November 17, 2005

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 04-226
	)	(Enforcement - Land)
P & J SUPER AUTO BODY SHOP, INC., an	)	
Illinois corporation, and JULIO GALLEGOS,	)	
	)	
Respondents.	)	

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

On June 29, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against P & J Super Auto Body Shop, Inc., and Julio Gallegos (respondents). The complaint concerns respondents' automotive repair services and new and used tire retail facility at 6809 North Clark Street, Chicago, Cook County. The Board accepted the complaint for hearing on July 8, 2004.

In the complaint, the People allege that the respondents violated Section 55(c) and 55.8(a)(3) and (b) of the Environmental Protection Act (Act) (415 ILCS 5/55(c), 5/55.8(a)(3), (b) (2004)) by (1) failing to notify the Agency of used tire storage activity within 30 days of commencing business; (2) selling tires at retail or offering tires for retail sale and failing to post the statutory written notice with the universal recycling symbol and informing consumers of the proper method for disposing of used tires; and (3) by storing used tires on the site for more than 90 days.

On October 11, 2005, the People and the respondents 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) (2004). These filings are authorized by Section 31(c)(2) of the Act. 415 ILCS 5/31(c)(2) (2004). *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, the respondents admit the violations alleged in the complaint, and agree to pay a civil penalty of \$10,000.

The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Chicago Sun-Times* on October 13, 2005. 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) (2004); 35 Ill. 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 the

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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

As previously stated, the respondents admit the violations alleged in the complaint, and agree to pay a civil penalty. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004), *as amended by P.A. 93-575*, (eff. Jan. 1, 2004), which may mitigate or aggravate the civil penalty amount. The People determined that a civil penalty of \$10,000 was appropriate.

The People and the respondent have satisfied Section 103.302. 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. P & J Super Auto Body Shop, Inc., and Julio Gallegos (respondents) must pay a civil penalty of \$10,000 within 30 days from the date of this order.
3. The respondents must pay the civil penalty by certified check, money order or electronic funds transfer, payable to the Environmental Protection Trust Fund. The case number, case name, and respondents' federal employer identification or social security numbers must be included on the certified check or money order. If submitting an electronic funds transfer to the Agency, the electronic funds transfer must be made in accordance to the specific instructions provided to respondents.
4. The respondents must submit the certified check, money order or electronic funds transfer to:

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

5. A copy of the certified check, money order or record of the electronic funds transfer and any transmittal letter must be sent to the following:

Ms. Bridget Carlson  
Assistant Attorney General  
Environmental Bureau

188 West Randolph Street, 20<sup>th</sup> Floor  
Chicago, Illinois 60601

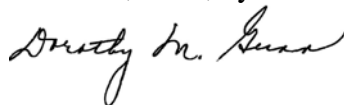
Ms. Melanie Jarvis  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

6. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act. 35 ILCS 5/1003(a) (2004).
7. The respondents must cease and desist from the alleged violations.

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) (2004); *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 November 17, 2005, by a vote of 4-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board