ILLINOIS POLLUTION CONTROL BOARD February 18, 2010

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 10-19 (Enforcement - Land)
MARATHON TIRE SERVICE OF OLNEY,)	(Emoreement - Land)
INC., an Illinois corporation,)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by G.L. Blankenship):

On September 8, 2009, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Marathon Tire Service of Olney, Inc. (Marathon). See 415 ILCS 5/31.1(c) (2008); 35 Ill. Adm. Code 108.202(c). The People allege that Marathon violated Sections 21(k), 55(a)(4), 55(d), 55(e), and 55.6(b) of the Environmental Protection Act (Act) (415 ILCS 5/21(k), 55(a)(4), 55(d), 55(e), 55.6(b) (2008)) and Sections 848.202(b), 848.202(c), 848.302(a), and 848.303 of the Board's regulations for managing used and waste tires (35 Ill. Adm. Code 848.202(b), 848.202(c), 848.302(a), and 848.303). The People further allege that Marathon violated these provisions by (1) storing used or waste tires on the site for more than 14 days without altering, reprocessing, converting, covering, or otherwise preventing the tires from accumulating water; (2) failing to properly prepare a contingency plan, daily tire records, and an annual tire summary and by conducting a tire storage operation in violation of the Board's recordkeeping and reporting requirements; and (3) failing to pay the annual fees for a tire storage site. The complaint concerns Marathon's retail tire business and general automotive repair shop located at 220 N. West Street in Olney, Richland County.

On December 28, 2009, the People and Marathon 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Olney Daily Mail* on January 11, 2010. 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) (2008); 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 Marathon's 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) (2008)). The People and Marathon have satisfied Section 103.302. Marathon admits the alleged violations and agrees to pay a civil penalty of \$7,000. 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. Marathon must pay a civil penalty of \$7,000.00 no later than Monday, March 22, 2010, which is the first business day after the 30th day after the date of this order. Marathon must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Marathon's social security number or federal employer identification number must be included on the certified check or money order.
- 3. Marathon 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.

In addition, Marathon must send a copy of the certified check or money order and any transmittal letter to:

Christine Zeivel Illinois Attorney General's Office Environmental Bureau 500 S. 2nd St. Springfield, IL 62706.

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).

5. Marathon 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) (2008); *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, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 18, 2010, by a vote of 4-0.

John T. Therriault, Assistant Clerk Illinois Pollution Control Board