

ILLINOIS POLLUTION CONTROL BOARD

July 25, 2013

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 12-52
)	(IEPA No. 10412-AC)
J & R TIRE SERVICE INC.,)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by C.K. Zalewski):

For the reasons below, the Board accepts the proposed settlement and dismissal of this administrative citation enforcement action. The Illinois Environmental Protection Agency (Agency) timely filed an administrative citation on May 7, 2012 against J & R Tire Service, Inc. (respondent). The Agency alleged that on April 11, 2012, respondent violated Section 55(k) of the Environmental Protection Act (Act) (415 ILCS 5/55(k)(1) (2010)) by causing or allowing water to accumulate in used or waste tires. The alleged violation took place at respondent's open dump facility located at 27 N. Madison Street in Carthage, Hancock County. The property is commonly known to the Agency as "J&R Tire Service, Inc." and is designated with Site Code No. 0670250002.

Respondent timely filed a petition to contest the administrative citation, which the Board accepted on June 7, 2012. On July 16, 2013, the parties filed a "stipulation of settlement and dismissal of respondent's petition for administrative review" (Stip.). Under its terms, respondent admits that it violated Section 55(k) of the Act (415 ILCS 5/55(k)(1) (2010)) by causing or allowing water to accumulate in used tires, and agrees to pay the statutory civil penalty of \$1,500 for this violation. Stip. at 2. Respondent also agrees to the dismissal of its petition contesting the administrative citation. *Id.* at 3. The stipulation states that the waste that was the subject of the administrative citation has been removed and properly disposed. *Id.* at 2. In addition, the Agency agrees not to refer the violations that are the subject of the administrative citation to the Office of the Illinois Attorney General or any other prosecuting authority to initiate a civil enforcement action. *Id.* at 2-3

The Board accepts the stipulation and proposal for settlement. Under Section 31.1(d) of the Act (415 ILCS 5/31.1(d) (2010)), the Board finds that respondent violated Section 55(k) of the Act (415 ILCS 5/55(k)(1) (2010)). Section 42(b)(4-5) of the Act (415 ILCS 5/42(b)(4-5) (2010)) establishes a civil penalty of \$1,500 for this violation. The Board accordingly assesses a civil penalty of \$1,500.

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. The Board finds that J & R Tire Service, Inc. violated Section 55(k) of the Environmental Protection Act (415 ILCS 5/55(k)(1) (2010)).
3. J & R Tire Service, Inc. must pay a civil penalty of \$1,500 no later than August 26, 2013, which is the first business day following the 30th day after the date of this order. J & R Tire Service, Inc. must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and J & R Tire Service, Inc.'s social security number or federal employer identification number must be included on the certified check or money order.
4. J & R Tire Service, Inc. 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
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
6. The Board dismisses the alleged violation of Section 55(k) of the Environmental Protection Act (415 ILCS 5/55(k)(1) (2010)) and J & R Tire Service, Inc.'s petition to contest the administrative citation.

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) (2010); *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 Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 25, 2013, by a vote of 4-0.

A handwritten signature in black ink, reading "John T. Therriault", enclosed in a thin black rectangular border.

John T. Therriault, Clerk
Illinois Pollution Control Board