

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUL 14 2003

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
GREG PREY, individually and doing)
business as KING TIRE,)
)
Respondent.)

No. 04-8
(Enforcement)

TO: Mr. Greg Prey
King Tire
237 1st Street
LaSalle, IL. 61301-2302

NOTICE OF FILING

PLEASE TAKE NOTICE that we have today, July 14, 2003 filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies of our Complaint, a copy of which is attached herewith and served upon you.

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.

NOTIFICATION

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental facilities financing act [20 ILCS 3515/1 et seq.] to correct the alleged pollution.

Respectfully submitted,

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

BY: Paula B. Wheeler
PAULA BECKER WHEELER
Assistant Attorney General
Environmental Bureau
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Chicago, IL 60601
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 business as KING TIRE,)
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 Respondent.)

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COMPLAINT

The PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of the Defendant, GREG PREY, individually and doing business as King Tire, as follows:

COUNT I

TIRE REGISTRATION VIOLATIONS

1. This Complaint is brought on behalf of the People of the State of Illinois, by 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 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, GREG PREY, is and was at all times relevant to this Complaint, the owner and operator of a tire retail business ("facility") known as King Tire, located at 237 1st Street, LaSalle,

LaSalle County, Illinois. The facility stores and sells new and used tires. The Respondent is also a registered tire transporter in the State of Illinois.

4. Section 55(d)(1) of the Act, 415 ILCS 5/55(d)(1)(2002), provides as follows:

(d) Beginning January 1, 1992, no person shall cause or allow the operation of: (1) a tire storage site which contains more than 50 used tires, unless the owner or operator, by January 1, 1992 (or the January 1 following commencement of operation, whichever is later) and January 1 of each year thereafter, (i) registers the site with the Agency, (ii) certifies to the Agency that the site complies with any applicable standards adopted by the Board pursuant to Section 55.2, (iii) reports to the Agency the number of tires accumulated, the status of vector controls, and the actions taken to handle and process the tires, and (iv) pays the fee required under subsection (b) of Section 55.6;

5. Section 55.6(b) of the Act, 415 ILCS 5/55.6(b)(2002), provides as follows:

(b) Beginning January 1, 1992, in addition to any other fees required by law, the owner or operator of each site required to be registered under subsection (d) of Section 55 shall pay to the Agency an annual fee of \$100. Fees collected under this subsection shall be deposited into the Environmental Protection Permit and Inspection Fund.

6. Section 21(k) of the Act, 415 ILCS 5/21(k)(2002), provides as follows:

Sec. 21. Prohibited acts. No person shall:

* * *

(k) Fail or refuse to pay any fee imposed under this Act.

7. From January 1, 2001 and through at least October 5, 2001, the Respondent stored more than 50 used tires and up to 2400 new, used and waste tires at his facility in LaSalle, Illinois.

8. From January 1, 2001 and through at least October 5, 2001, Respondent failed to register as a tire storage site.

9. From January 1, 2001 and through at least October 5, 2001, Respondent failed to pay the annual registration fee of \$100.00.

10. As of at least June 17, 2003, Respondent registered as a tire storage site and paid the annual registration fee.

11. By failing to register as a tire storage site, Respondent violated Section 55(d)(1) of the Act, 415 ILCS 5/55(d)(1)(2002).

12. By failing to pay the annual registration fee of \$100.00, Respondent violated Sections 55.6(b) and 21(k) of the Act, 415 ILCS 5/55.6(b), 5/21(k)(2002).

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, GREG PREY, individually and doing business as King Tire, on this Count I:

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

B. Finding that Respondent has violated Sections 55(d)(1), 55.6(b), and 21(k) of the Act, 415 ILCS 5/55(d)(1), 55.6(b), and 5/21(k)(2002);

C. Ordering Respondent to cease and desist from any further violations of Sections 55(d)(1), 55.6(b), and 21(k) of the Act, 415 ILCS 5/55(d)(1), 55.6(b), and 5/21(k)(2002);

D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each violation, plus ten thousand dollars (\$10,000) per day for each day of each violation;

E. Ordering Respondent to pay all costs, including attorney, expert witnesses and consultant fees expended by the State in its pursuit of this action; and

F. Granting such other relief as the Board may deem appropriate and just.

COUNT II

TIRE STORAGE VIOLATIONS

1-7. Complainant realleges and incorporates by reference herein paragraphs 1 through 7 of Count I as paragraphs 1 through 7 of this Count II.

8. Respondent's operation of the facility is subject to the Act and the Rules and Regulations promulgated by the Illinois Pollution Control Board ("Board"). The Board's regulations for used and waste tires are found in Title 35, Subtitle G, Chapter I, Subchapter m, of the Illinois Administrative Code ("Board Regulations for Used and Waste Tires").

9. Section 55(a)(4) and 55(e) of the Act, 415 ILCS 5/55(a)(4), 5/55(e)(2002), provide, in pertinent part, as follows:

(a) No person shall:

* * *

(4) Cause or allow the operation of a tire storage site except in compliance with Board regulations.

* * *

(e) No person shall cause or allow the storage, disposal, treatment or processing of any used or waste tire in violation of any regulation or standard adopted by the Board.

10. Section 848.202(b) of the Board Regulations for Used and Waste Tires, 35 Ill. Adm. Code 848.202(b), provides, in pertinent part, as follows:

* * *

b) At sites at which more than 50 used or waste tires are located the owner or operator shall comply with the following requirements:

1) Used or waste tires shall not be placed on or accumulated in any pile outside of any building unless the pile is separated from all other piles by no less than 25 feet and aisle space is maintained to allow the unobstructed movement of personnel and equipment.

2) Used or waste tires shall not be accumulated in any area located outside of any building unless the accumulation is separated from all buildings, whether on or off the site, by no less than 25 feet.

* * *

4) Used or waste tires shall be drained of water on the day of generation or receipt.

5) Used or waste tires received at the site shall not be stored unless within 14 days after the receipt of any used tire the used tire is altered, reprocessed, converted, covered or otherwise prevented from accumulating water.

* * *

11. On October 5, 2001, and on other dates better known to the Respondent, the Respondent stored tires outside of his building and did not have enough aisle space to allow the unobstructed movement of personnel and equipment between the piles of used and waste tires.

12. On October 5, 2001, and on other dates better known to the Respondent, the Respondent did not maintain the piles of used or waste tires so that the piles were separated from the facility's buildings by a distance of at least 25 feet.

13. On October 5, 2001, and on other dates better known to the Respondent, the Respondent failed to drain water from all used or waste tires on the day of generation or receipt.

14. On October 5, 2001, and on other dates better known to the Respondent, the Respondent stored used or waste tires for more than 14 days without altering, reprocessing, converting, covering, or otherwise preventing the tires from accumulating water.

15. As of at least June 17, 2003, Respondent has maintained adequate aisle space outside of the building, has maintained the piles of used tires with more than 25 feet of separation from the facility, has drained water from the tires on the day of receipt, and has stored tires for more than 14 days while preventing the tires from accumulating water.

16. By failing to maintain adequate aisle space to allow the unobstructed movement of personnel and equipment between piles of used or waste tires outside of the building, the Respondent has violated Sections 55(a)(4) and (e) of the Act, 415 ILCS 5/55(a)(4) and (e) (2002), and 35 Ill. Adm. Code 848.202(b)(1).

17. By failing to maintain the piles of used or waste tires so that the piles were separated from the facility's buildings by a distance of at least 25 feet, the Respondent has violated Sections 55(a)(4) and (e) of the Act, 415 ILCS 5/55(a)(4) and (e) (2002), and 35 Ill. Adm. Code 848.202(b)(2).

18. By failing to drain water from all used or waste tires on the day of generation or receipt, the Respondent has violated Sections

55(a)(4) and (e) of the Act, 415 ILCS 5/55(a)(4) and (e) (2002), and 35 Ill. Adm. Code 848.202(b)(4).

19. By storing used or waste tires for more than 14 days without altering, reprocessing, converting, covering, or otherwise preventing the tires from accumulating water, the Respondent has violated Sections 55(a)(4) and (e) of the Act, 415 ILCS 5/55(a)(4) and (e) (2002), and 35 Ill. Adm. Code 848.202(b)(5).

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, GREG PREY, individually and doing business as King Tire, on this Count II:

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

B. Finding that Respondent has violated Sections 55(a)(4) and (e) of the Act, 415 ILCS 5/55(a)(4) and (e) (2002), and 35 Ill. Adm. Code 848.202(b)(1), (2), (4), and (5);

C. Ordering Respondent to cease and desist from any further violations of Sections 55(a)(4) and (e) of the Act, 415 ILCS 5/55(a)(4) and (e) (2002), and 35 Ill. Adm. Code 848.202(b)(1), (2), (4), and (5);

D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each violation, plus ten thousand dollars (\$10,000) per day for each day of each violation;

E. Ordering Respondent to pay all costs, including attorney, expert witnesses and consultant fees expended by the State in its pursuit of this action; and

F. Granting such other relief as the Board may deem appropriate and just.

COUNT III

TIRE TRANSPORTER VIOLATIONS

1-9. Complainant realleges and incorporates by reference herein paragraphs 1 through 9 of Count II as paragraphs 1 through 9 of this Count III.

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

* * *

(g) No person shall engage in any operation as a used or waste tire transporter except in compliance with Board regulations.

11. Section 848.601(a) of the Board Regulations for Used and Waste Tires, 35 Ill. Adm. Code 848.601(a), provides as follows:

Tire Transportation Prohibitions

(a) Except as provided in Subsection (c), no person shall transport more than 20 used or waste tires in a vehicle unless the following requirements are met.

- 1) The owner or operator has registered the vehicle with the Agency in accordance with this Subpart, received approval of such registration from the Agency, and such registration is current, valid and in effect.
- 2) The owner or operator displays a placard on the vehicle, issued by the Agency following registration, in accordance with the requirements of this Subpart.

* * *

12. On October 5, 2001, and on other dates better known to the Respondent, the Respondent transported 20 or more used or waste tires in a vehicle which had an expired transporter placard.

13. As of the year 2003, Respondent has used properly executed transporter placards when transporting vehicles.

14. By transporting 20 or more used or waste tires in a vehicle with expired transporter placards, Respondent has violated Section 55(g) of the Act, 415 ILCS 5/55(g)(2002), and 35 Ill. Adm. Code 848.601(a).

WHEREFORE, Complainant, the PEOPLE OF THE STATE OF ILLINOIS, respectfully request that the Board enter an order against the Respondent, GREG PREY, individually and doing business as King Tire, on this Count III:

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

B. Finding that Respondent has violated Section 55(g) of the Act, 415 ILCS 5/55(g)(2002), and 35 Ill. Adm. Code 848.601(a);

C. Ordering Respondent to cease and desist from any further violations of Section 55(g) of the Act, 415 ILCS 5/55(g)(2002), and 35 Ill. Adm. Code 848.601(a);

D. Assessing against Respondent a civil penalty of fifty thousand dollars (\$50,000.00) for each violation, plus ten thousand dollars (\$10,000) per day for each day of each violation;

E. Ordering Respondent to pay all costs, including attorney, expert witnesses and consultant fees expended by the State in its pursuit of this action; and

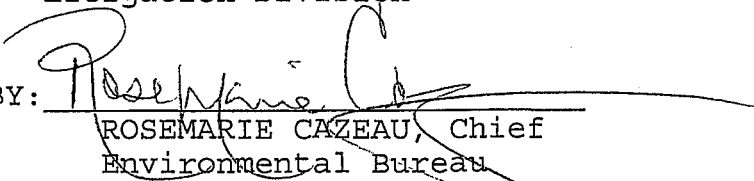
F. Granting such other relief as the Board may deem appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

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

BY:


ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL:

Paula Becker Wheeler
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, Illinois 60601
(312)814-1511

CERTIFICATE OF SERVICE

I, PAULA BECKER WHEELER, an attorney, do certify that I caused to be served this 14th day of July, 2003, the foregoing Complaint and Notice of Filing upon the persons listed on said Notice, by Certified Mail.

Paula Becker Wheeler

PAULA BECKER WHEELER