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DEC 22 2004

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

December 17, 2004

PCB05-117

The Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. City of Cairo***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, COMPLAINT and APPEARANCE in regard to the above-captioned matter. Please file the originals and return file-stamped copies of the documents to our office in the enclosed self-addressed, stamped envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas Davis", is written over a horizontal line.

Thomas Davis
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

TD/pp
Enclosures

RECEIVED
CLERK'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

DEC 22 2004

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
 ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 CITY OF CAIRO,)
)
 Respondent.)

PCB No. 05-117
(Enforcement)

NOTICE OF FILING

To: City of Cairo
c/o McArthur Allen
Allen Law Office
122 First Street
Mounds, IL 62964

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and herewith 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 this 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.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2002), to correct the pollution alleged in the Complaint filed in this case.

Respectfully submitted,

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: _____

THOMAS DAVIS
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: December 17, 2004

CERTIFICATE OF SERVICE

I hereby certify that I did on December 17, 2004, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: City of Cairo
c/o McArthur Allen
Allen Law Office
122 First Street
Mounds, IL 62964

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

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



Thomas Davis
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

DEC 22 2004

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 CITY OF CAIRO,)
)
 Respondent.)

ALB
No. 05-117

ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, THOMAS DAVIS, Assistant Attorney General of the State of Illinois, hereby enters his appearance as attorney of record.

Respectfully submitted,

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: 
THOMAS DAVIS
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: December 17, 2004

RECEIVED
CLERK'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
ALEXANDER COUNTY, ILLINOIS

DEC 22 2004

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
 ex rel. LISA MADIGAN, Attorney)
 General of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 CITY OF CAIRO,)
)
 Respondent.)

PCB 05-117
(Enforcement-Tire Cost Recovery)

COMPLAINT

The 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, complains of the Respondent, CITY OF CAIRO, as follows:

COUNT I

COST RECOVERY: SECOND AND OHIO SITE

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 Section 55.3 of the Illinois Environmental Act ("Act"), 415 ILCS 5/55.3 (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 which is charged, *inter alia*, with the duty of enforcing the Act.

3. The City of Cairo ("Cairo") is an Illinois municipal corporation. The City owns property located at Second and Ohio Streets in Cairo, Alexander County, Illinois.

4. Section 55.3 of the Act, 415 ILCS 5/55.3 (2002), provides in pertinent part as follows:

- b. Upon making a finding that an accumulation of used or waste tires creates a hazard posing a threat to public health or the environment, the Agency may undertake preventative or corrective action in accordance with this subsection. Such preventative or corrective action may consist of any or all of the following:

* * *

- 3. Removal of used and waste tire accumulations from the area.

* * *

- d. The Agency shall have authority to provide notice to the owner or operator, or both, of a site where used or waste tires are located, and to the owner or operator, or both, of the accumulation of the tires at the site, whenever the Agency finds that the used or waste tires pose a threat to public health or the environment * * *

The notice provided by the Agency shall include the identified preventative or corrective action, and shall provide an opportunity for the owner or operator, or both, to perform such action.

* * *

- e. In accordance with constitutional limitations, the Agency shall have authority to enter at all reasonable times upon any private or public property for the purpose of taking whatever preventive or corrective action is necessary and appropriate in accordance with the provisions of this Section, including but not limited to removal, processing or treatment of used or waste tires, whenever the Agency finds that used or waste tires pose a threat to public health or the environment.

* * *

- g. Except as otherwise provided in this Section, the owner or operator of any site or accumulation of used or waste tires at which the Agency has undertaken corrective or preventative action under this Section shall be liable for all costs thereof incurred by the State of Illinois, including reasonable costs of collection. Any monies received by the Agency hereunder shall be deposited into the Used Tire Management Fund.

* * *

- h. Any person liable to the Agency for costs incurred under subsection (g) of this Section may be liable to the State of Illinois for punitive damages in

an amount at least equal to, and not more than 2 times, the costs incurred by the State if such person failed without sufficient cause to take preventative or corrective action pursuant to notice issued under subsection (d) of this Section.

* * *

5. Prior to June 24, 1999, John Stephenson accumulated more than 4,000 used and waste tires in and around a warehouse located at 1601 Commercial Avenue in Cairo, Alexander County, Illinois. This site was not registered as a tire storage facility. The site was not secured from public access and was located near a school, a church, and a day care facility. Upon learning of the site, the Illinois EPA initiated enforcement efforts and sent a referral to the Attorney General. On August 4, 1999, the Attorney General filed a complaint and thereafter obtained preliminary injunctive relief prohibiting Mr. Stephenson from accumulating any more waste or used tires at the site. On December 20, 1999, the Attorney General obtained a default judgment against Mr. Stephenson which directed him to bring the site into compliance with the Act and regulations by January 19, 2000.

6. In early January 2000, the City declared the site to be a threat to public health and safety and began moving tires from the site to a second location utilized by Mr. Stephenson to store used and waste tires which was also the subject of the Attorney General's complaint and the default judgment. The Illinois EPA notified the City that it lacked the authorization to do this. The City then transferred the remaining tires to its Second and Ohio Street property where they were commingled with tires generated or accumulated as a result of other City activities.

7. On April 25, 2000, the Illinois EPA issued Mr. Stephenson and the City a notice (attached hereto as Exhibit A) pursuant to Section 55.3(d) of the Act, 415 ILCS 5/ 55.3(d), directing the City and Mr. Stephenson to remove the waste and used tires accumulated at the 2nd and Ohio Street property. Neither party removed the tires pursuant to the notice.

8. On July 31, 2000, one of the Illinois EPA's tire removal contractor commenced the removal of the tires at the 2nd and Ohio Street property. The work was completed in early August, 2000. Approximately 191.17 tons of waste and used tires removed and properly disposed of at a cost of \$35,170.75.

9. On May 17, 2002, the Illinois EPA sent a demand, (attached hereto as Exhibit B) requesting reimbursement of the removal costs. The City responded by letter but did not provide the requested reimbursement.

10. The City failed without sufficient cause to perform the preventative or corrective action required under the Illinois EPA's Section 55.3(d) notice.

11. Pursuant to Section 55.3(g) of the Act, 415 ILCS 5/55.3(g) (2002), the City is liable to the State of Illinois for the sum of \$35,170.75 for the actual costs of the tire removal.

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board:

(A) Set a hearing in this matter not less than twenty-one (21) days from the date of service of this Complaint at which the Respondent, City of Cairo, be required to answer all of the allegations herein;

(B) After due consideration of all statements, testimony, evidence, and arguments that shall be submitted at said hearing or upon default by the Respondent, issue a final order finding that the Respondent failed without sufficient cause to take preventative or corrective action pursuant to the Illinois EPA notice issued under Section 55.3(d) of the Act, 415 ILCS 5/55.3(d) (2002), and direct the Respondent to pay \$35,170.75 to the Used Tire Management Fund as actual cleanup costs expended by the State and punitive damages of \$70,341.50 to the Used Tire Management Fund;

(C) After due consideration of all statements, testimony, evidence, and arguments that shall be submitted at said hearing or upon default by the Respondent, issue a final order directing the Respondent to cease and desist from further violations of the Act and its regulations;

(D) Pursuant to Section 55.3(g) of the Act, 415 ILCS 5/55.3(g) (2002), award to Complainant its costs and reasonable attorney's fees; and

(E) Grant such other and further relief as this Board may deem appropriate.

COUNT II

COST RECOVERY: MAINTENANCE GARAGE SITE

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 Section 55.3 of the Illinois Environmental Act ("Act"), 415 ILCS 5/55.3 (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 which is charged, *inter alia*, with the duty of enforcing the Act.

3. The City of Cairo ("Cairo") is an Illinois municipal corporation. The City owns property located at 105 Sixth Street in Cairo, Alexander County, Illinois, and operates a maintenance garage there.

4. Section 55.3 of the Act, 415 ILCS 5/55.3 (2002), provides in pertinent part as follows:

- b. Upon making a finding that an accumulation of used or waste tires creates a hazard posing a threat to public health or the environment, the Agency may undertake preventative or corrective action in accordance with this subsection. Such preventative or corrective action may consist of any or all of the following:

* * *

3. Removal of used and waste tire accumulations from the area.

* * *

- d. The Agency shall have authority to provide notice to the owner or operator, or both, of a site where used or waste tires are located, and to the owner or operator, or both, of the accumulation of the tires at the site, whenever the Agency finds that the used or waste tires pose a threat to public health or the environment * * *

The notice provided by the Agency shall include the identified preventative or corrective action, and shall provide an opportunity for the owner or operator, or both, to perform such action.

* * *

- e. In accordance with constitutional limitations, the Agency shall have authority to enter at all reasonable times upon any private or public property for the purpose of taking whatever preventive or corrective action is necessary and appropriate in accordance with the provisions of this Section, including but not limited to removal, processing or treatment of used or waste tires, whenever the Agency finds that used or waste tires pose a threat to public health or the environment.

* * *

- g. Except as otherwise provided in this Section, the owner or operator of any site or accumulation of used or waste tires at which the Agency has undertaken corrective or preventative action under this Section shall be liable for all costs thereof incurred by the State of Illinois, including reasonable costs of collection. Any monies received by the Agency hereunder shall be deposited into the Used Tire Management Fund.

* * *

- h. Any person liable to the Agency for costs incurred under subsection (g) of this Section may be liable to the State of Illinois for punitive damages in an amount at least equal to, and not more than 2 times, the costs incurred by the State if such person failed without sufficient cause to take preventative or corrective action pursuant to notice issued under subsection (d) of this Section.

* * *

5. Prior to June 24, 1999, John Stephenson accumulated more than 4,000 used and waste tires in and around a warehouse located at 1601 Commercial Avenue in Cairo, Alexander County, Illinois. This site was not registered as a tire storage facility. The site was not scured

from public access and was located near a school, a church, and a day care facility. Upon learning of the site, the Illinois EPA initiated enforcement efforts and sent a referral to the Attorney General. On August 4, 1999, the Attorney General filed a complaint and thereafter obtained preliminary injunctive relief prohibiting Mr. Stephenson from accumulating any more waste or used tires at the site. On December 20, 1999, the Attorney General obtained a default judgment against Mr. Stephenson which directed him to bring the site into compliance with the Act and regulations by January 19, 2000.

6. In early January 2000, the City declared the site to be a threat to public health and safety and began moving tires from the site to a second location utilized by Mr. Stephenson to store used and waste tires which was also the subject of the Attorney General's complaint and the default judgment. The Illinois EPA notified the City that it lacked the authorization to do this. The City then transferred some of the remaining tires to its maintenance garage property where they were commingled with tires generated or accumulated as a result of other City activities.

7. On April 27, 2000, the Illinois EPA issued Mr. Stephenson and the City a notice (attached hereto as Exhibit C) pursuant to Section 55.3(d) of the Act, 415 ILCS 5/ 55.3(d), directing the City and Mr. Stephenson to remove the waste and used tires accumulated at the maintenance garage property. Neither party removed the tires pursuant to the notice.

8. In July of 2000, one of the Illinois EPA's tire removal contractor commenced the removal of the tires at the maintenance garage property. The work was completed later that month. Approximately 75 tons of waste and used tires removed and properly disposed of at a cost of \$14,970.50.

9. On May 17, 2002, the Illinois EPA sent a demand, (attached hereto as Exhibit D) requesting reimbursement of the removal costs. The City responded by letter but did not provide the requested reimbursement.

10. The City failed without sufficient cause to perform the preventative or corrective action required under the Illinois EPA's Section 55.3(d) notice.

11. Pursuant to Section 55.3(g) of the Act, 415 ILCS 5/55.3(g) (2002), the City is liable to the State of Illinois for the sum of \$14,970.50 for the actual costs of the tire removal.

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully requests that the Board:

(A) Set a hearing in this matter not less than twenty-one (21) days from the date of service of this Complaint at which the Respondent, City of Cairo, be required to answer all of the allegations herein;

(B) After due consideration of all statements, testimony, evidence, and arguments that shall be submitted at said hearing or upon default by the Respondent, issue a final order finding that the Respondent failed without sufficient cause to take preventative or corrective action pursuant to the Illinois EPA notice issued under Section 55.3(d) of the Act, 415 ILCS 5/55.3(d) (2002), and direct the Respondent to pay \$35,170.75 to the Used Tire Management Fund as actual cleanup costs expended by the State and punitive damages of \$70,341.50 to the Used Tire Management Fund;

(C) After due consideration of all statements, testimony, evidence, and arguments that shall be submitted at said hearing or upon default by the Respondent, issue a final order directing the Respondent to cease and desist from further violations of the Act and its regulations;

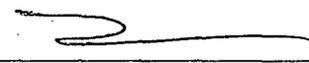
(D) Pursuant to Section 55.3(g) of the Act, 415 ILCS 5/55.3(g) (2002), award to Complainant its costs and reasonable attorney's fees; and

(E) Grant such other and further relief as this Board may deem appropriate.

Respectfully submitted,

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

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

BY: 

THOMAS DAVIS
Assistant Attorney General
Environmental Bureau

Attorney Reg. No. 3124200
500 South Second Street
Springfield, Illinois 62706
217/782-7968
Dated: 12/17/04

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:) 0030055041 - - Alexander County
) Cairo / 2nd & Ohio
JOHN STEPHENSON,) Compliance File
an individual,)
)
)
)
)
)
THE CITY OF CAIRO, ILLINOIS,)
a municipal corporation.)

NOTICE PURSUANT TO SECTION 55.3(d) OF THE ENVIRONMENTAL PROTECTION ACT

I. GENERAL

This notice is issued pursuant to the authority vested in the Illinois Environmental Protection Agency ("Illinois EPA") by Section 55.3(d) of the Environmental Protection Act ("Act"), 415 ILCS 5/55.3(d)(2000).

John Stephenson and the City of Cairo, Illinois (the "parties") shall undertake all actions required by the terms and conditions of this Notice. Failure by the parties to undertake such actions may result in sanctions, including but not limited to the sanctions described in Section XIII.

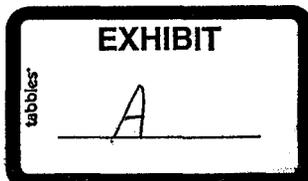
II. STATEMENT OF PURPOSE

The objectives of the Illinois EPA are to undertake appropriate preventive or corrective actions to prevent or mitigate any hazard to public health or the environment from used or waste tires at the Cairo / 2nd & Ohio site ("site"). Activities conducted pursuant to the Notice are subject to approval by the Illinois EPA.

III. FINDINGS OF FACT

The following constitutes an outline of the facts upon which this Notice is based:

- A. The parties have caused or allowed the open dumping and disposal of used and/or waste tires at a site located at the southeast corner of the intersection of 2nd Street & Ohio Street, Cairo, Alexander County, Illinois. The site has been assigned Illinois EPA Site No. 0030055041. The dump area is estimated to contain in excess of 15,000 used and/or waste tires.
- B. The Illinois EPA finds that the disposal of used and/or waste tires poses a threat to the environment.



Attachment 1

IV. CONCLUSIONS OF LAW

- A. The site described in Section III is a site at which used and/or waste tires are located.
- B. John Stephenson is a "person" as defined in Section 3.26 of the Act.
- C. The City of Cairo, Illinois, a municipal corporation, is a "person" as defined in Section 3.26 of the Act.
- C. John Stephenson and the City of Cairo, Illinois, a municipal corporation, are persons which may be liable pursuant to Section 55.3(g) and (h) of the Act.

V. DETERMINATIONS

Based upon the Findings of Fact and Conclusions of Law set forth in Sections III and IV, the Illinois EPA has determined that:

- A. The accumulation of used and/or waste tires at the site presents a threat to public health or the environment.
- B. The actions required by this Notice are necessary to prevent or mitigate a threat to public health or the environment.

VI. IDENTIFIED RESPONSE ACTION

- A. Within 30 days of receipt of this Notice, the parties shall submit a plan to the Illinois EPA for the removal of all used and/or waste tires from the site and shall immediately cease causing or allowing all open dumping on the site. This cleanup plan shall be submitted to the Manager, Used Tire Unit, Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Post Office Box 19276, Springfield, Illinois 62794-9276.
- B. The parties shall make available all business records, receipts, and other pertinent information regarding the cleanup of the site.

VII. RESERVATION OF RIGHTS

Notwithstanding compliance with the terms of this Notice, including the completion of the work set forth in Section VI, the parties are not released from liability, if any, for any actions beyond the terms of this Notice taken by the Illinois EPA with respect to the site. The Illinois EPA reserves the right to take any enforcement action pursuant to the Act or any available legal authority, including the right to seek injunctive relief, monetary penalties, and punitive damages for any violation of law or this Notice.

The Illinois EPA expressly reserves all rights that it may have, including the Illinois EPA's right both to disapprove of work performed by the parties and to request that they perform tasks in addition to those provided in this Notice. In the event the parties decline to perform any additional or modified tasks, the Illinois EPA will have the right to undertake any such work.

In addition, the Illinois EPA reserves the right to undertake removal actions or remedial actions at any time.

VIII. ABATEMENT OF ENDANGERMENT

In the event that the Director of the Illinois EPA determines that any activities implementing the preventive or corrective action or any other circumstances or activities create an imminent or substantial endangerment to the health and welfare of the people on the site or in the surrounding area or to the environment, the Director may issue a notice to cease further implementation of the action for such period of time as needed to abate the endangerment.

IX. OTHER CLAIMS

Nothing in this Notice shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation for any liability it may have arising out of or relating in any way to the storage or disposal of used or waste tires at the site.

X. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to this Notice shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations.

XI. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

This Notice may be amended by the Illinois EPA. Such amendments shall be in writing and shall become effective upon the date on which the amendments are signed by the Illinois EPA.

Any reports, plans, specifications, schedules, and attachments required by this Notice are, upon approval by the Illinois EPA, incorporated into this Notice. Any non-compliance with such Illinois EPA approved reports, plans, specifications, schedules, and attachments shall be considered a failure to perform the requirements of this Notice.

No informal advice, guidance, suggestions, or comments by the Illinois EPA regarding reports, plans, specifications, schedules, and any other writing submitted by the parties will be construed as relieving them of their obligation to obtain such formal approval as may be required by this Notice.

XII. PARTIES BOUND

This Notice shall apply to and be binding upon the parties, their agents, successors, and assignees and upon all persons, contractors, and consultants acting under or on behalf of the parties.

No change in ownership or corporate or partnership status relating to the site will in any way alter the status of the parties or in any way alter their responsibility under this Notice. The parties will be responsible for carrying out all activities required pursuant to this Notice.

XIII. FAILURE TO COMPLY WITH THIS NOTICE

Pursuant to Section 55.3(g) of the Act, 415 ILCS 5/55.3(g), the owner or operator of any accumulation of used or waste tires at which the Illinois EPA has taken action under Section 55.3 of the Act, 415 ILCS 5/55.3, shall be liable for all costs thereof incurred by the State of Illinois, including reasonable costs of collection.

Pursuant to Section 55.3(h) of the Act, 415 ILCS 5/55.3(h), if a person fails without sufficient cause to take preventive or corrective action in accordance with this Notice, such failure may subject such person to liability to the State of Illinois for punitive damages in an amount at least equal to, and not more than two times, the amount of any costs incurred by the State as a result of such failure. The punitive damages shall be in addition to any costs recovered from the liable person pursuant to Section 55.3(g) of the Act, and in addition to any other penalty or relief provided by the Act or any other law.

XIV. TERMINATION AND SATISFACTION

The provisions of this Notice shall be deemed satisfied upon the parties receipt of written notice from the Illinois EPA that they have demonstrated to the satisfaction of the Illinois EPA, that all of the terms of this Notice, including any additional tasks which the Illinois EPA has determined to be necessary, have been completed.

By: Thomas V. Skinner
Thomas V. Skinner, Director
Illinois EPA

DATE: 4/25/00

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

PROOF OF SERVICE

I, the undersigned, on oath, state that I have served the attached Notice Pursuant to Section 55.3(d) of the Environmental Protection Act upon the persons or entities to whom it is directed, by delivering a copy to:

John Stephenson
Post Office Box 386
Barlow, Kentucky 42024

City of Cairo
Attention: Mayor James E. Wilson
Post Office Box 393
Cairo, Illinois 62914

and sending it by Certified Mail, return receipt requested, from Springfield, Illinois on April 27, 2000 with sufficient postage affixed.


ROBERT J. SCHERSCHLIGT
Assistant Counsel
Division of Legal Counsel

SUBSCRIBED AND SWORN TO BEFORE ME

this 27th day of April, 1998: 2000


Notary Public





ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

RENEE CIPRIANO, DIRECTOR

217/782-5544
TDD 217/782-9143

May 17, 2002

CERTIFIED MAIL -
RETURN RECEIPT REQUESTED

7000 0520 0012 5645 5963

Honorable James E. Wilson
Mayor
City of Cairo
P.O. Box 393
Cairo, Illinois 62914-0393

Re: Corrective Action Reimbursement Demand Letter
0030055041 - Alexander County
Cairo / City of Cairo (2nd and Ohio)
Compliance File

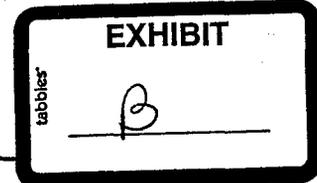
Dear Mayor Wilson:

This letter is in reference to corrective action taken by the Illinois Environmental Protection Agency ("Illinois EPA") at the above-referenced site involving the removal of used or waste tires. Pursuant to an April 25, 2000 notice given to the City under Section 55.3(d) of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/55.3(d)) and the corrective action authority of Section 55.3(e) of the Act (415 ILCS 5/55.3(e)), the Illinois EPA removed approximately 192 tons of used or waste tires from the site during July and August, 2000.

Pursuant to Section 55.3(g) of the Act (415 ILCS 5/55.3(g)), you are liable to the Illinois EPA for all reasonable costs incurred in performing the corrective action. In addition, you are liable under Section 55.3(h) for additional punitive damages of up to two times the amount of costs incurred by the State of Illinois in performing the corrective action under Section 55.3(e) of the Act (415 ILCS 5/55.3(e, h)).

The Illinois EPA incurred costs in the amount of \$35,170.75 in connection with the corrective action at this site. You are the owner of this site, and demand is hereby made upon you for \$35,170.75. If the Illinois EPA does not receive this sum within thirty (30) days of the receipt of this letter, the Illinois EPA will refer this matter to the Illinois Attorney General's Office for the filing of a formal complaint. Such a complaint will seek cost recovery, punitive damages, and the statutory maximum penalty allowed by law

GEORGE H. RYAN, GOVERNOR



Honorable James E. Wilson
Page 2

as well as attorney's fees and court costs. The right to seek injunctive relief, additional penalties, corrective action costs, attorney's fees and/or court costs is expressly reserved by the Illinois EPA.

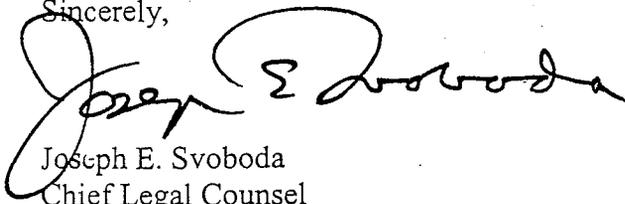
A certified check or money order payable to the "Environmental Protection Agency, for deposit in the Used Tire Management Fund" should be sent to the following address within thirty (30) days of the receipt of this letter:

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

The certified check or money order should indicate your name, social security number or federal employer's identification number, and the Illinois EPA site number 0030055041.

If you have any questions contact Assistant Counsel Greg Richardson of the Division of Legal Counsel at 217/782-5544. Thank you for your attention to this matter.

Sincerely,



Joseph E. Svoboda
Chief Legal Counsel
Division of Legal Counsel

cc: James A. Flummer, City Attorney, P.O. Box 588, 3305 Sycamore Street, Cairo,
Illinois 62914

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:)
)
JOHN STEPHENSON,) 0030055030 - - Alexander County
an individual,) Cairo / City of Cairo Maintenance Garage
) Compliance File
)
&)
)
THE CITY OF CAIRO, ILLINOIS,)
a municipal corporation.)

NOTICE PURSUANT TO SECTION 55.3(d) OF THE ENVIRONMENTAL PROTECTION ACT

I. GENERAL

This notice is issued pursuant to the authority vested in the Illinois Environmental Protection Agency ("Illinois EPA") by Section 55.3(d) of the Environmental Protection Act ("Act"), 415 ILCS 5/55.3(d)(2000).

John Stephenson and the City of Cairo, Illinois (the "parties") shall undertake all actions required by the terms and conditions of this Notice. Failure by the parties to undertake such actions may result in sanctions, including but not limited to the sanctions described in Section XIII.

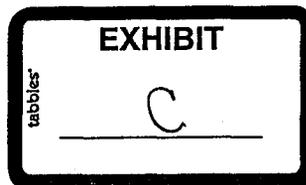
II. STATEMENT OF PURPOSE

The objectives of the Illinois EPA are to undertake appropriate preventive or corrective actions to prevent or mitigate any hazard to public health or the environment from used or waste tires at the Cairo / City of Cairo Maintenance Garage site ("site"). Activities conducted pursuant to the Notice are subject to approval by the Illinois EPA.

III. FINDINGS OF FACT

The following constitutes an outline of the facts upon which this Notice is based:

- A. The parties have caused or allowed the open dumping and disposal of used and/or waste tires at a site located at 105 6th Street, Cairo, Alexander County, Illinois. The site has been assigned Illinois EPA Site No. 0030055030. The dump area is estimated to contain in excess of 3,000 used and/or waste tires.
- B. The Illinois EPA finds that the disposal of used and/or waste tires poses a threat to the environment.



Attachment 1

IV. CONCLUSIONS OF LAW

- A. The site described in Section III is a site at which used and/or waste tires are located.
- B. John Stephenson is a "person" as defined in Section 3.26 of the Act.
- C. The City of Cairo, Illinois, a municipal corporation, is a "person" as defined in Section 3.26 of the Act.
- C. John Stephenson and the City of Cairo, Illinois, a municipal corporation, are persons which may be liable pursuant to Section 55.3(g) and (h) of the Act.

V. DETERMINATIONS

Based upon the Findings of Fact and Conclusions of Law set forth in Sections III and IV, the Illinois EPA has determined that:

- A. The accumulation of used and/or waste tires at the site presents a threat to public health or the environment.
- B. The actions required by this Notice are necessary to prevent or mitigate a threat to public health or the environment.

VI. IDENTIFIED RESPONSE ACTION

- A. Within 30 days of receipt of this Notice, the parties shall submit a plan to the Illinois EPA for the removal of all used and/or waste tires from the site and shall immediately cease causing or allowing all open dumping on the site. This cleanup plan shall be submitted to the Manager, Used Tire Unit, Bureau of Land, Illinois EPA, 1021 North Grand Avenue East, Post Office Box 19276, Springfield, Illinois 62794-9276.
- B. The parties shall make available all business records, receipts, and other pertinent information regarding the cleanup of the site.

VII. RESERVATION OF RIGHTS

Notwithstanding compliance with the terms of this Notice, including the completion of the work set forth in Section VI, the parties are not released from liability, if any, for any actions beyond the terms of this Notice taken by the Illinois EPA with respect to the site. The Illinois EPA reserves the right to take any enforcement action pursuant to the Act or any available legal authority, including the right to seek injunctive relief, monetary penalties, and punitive damages for any violation of law or this Notice.

The Illinois EPA expressly reserves all rights that it may have, including the Illinois EPA's right both to disapprove of work performed by the parties and to request that they perform tasks in addition to those provided in this Notice. In the event the parties decline to perform any additional or modified tasks, the Illinois EPA will have the right to undertake any such work.

In addition, the Illinois EPA reserves the right to undertake removal actions or remedial actions at any time.

VIII. ABATEMENT OF ENDANGERMENT

In the event that the Director of the Illinois EPA determines that any activities implementing the preventive or corrective action or any other circumstances or activities create an imminent or substantial endangerment to the health and welfare of the people on the site or in the surrounding area or to the environment, the Director may issue a notice to cease further implementation of the action for such period of time as needed to abate the endangerment.

IX. OTHER CLAIMS

Nothing in this Notice shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation for any liability it may have arising out of or relating in any way to the storage or disposal of used or waste tires at the site.

X. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to this Notice shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations.

XI. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

This Notice may be amended by the Illinois EPA. Such amendments shall be in writing and shall become effective upon the date on which the amendments are signed by the Illinois EPA.

Any reports, plans, specifications, schedules, and attachments required by this Notice are, upon approval by the Illinois EPA, incorporated into this Notice. Any non-compliance with such Illinois EPA approved reports, plans, specifications, schedules, and attachments shall be considered a failure to perform the requirements of this Notice.

No informal advice, guidance, suggestions, or comments by the Illinois EPA regarding reports, plans, specifications, schedules, and any other writing submitted by the parties will be construed as relieving them of their obligation to obtain such formal approval as may be required by this Notice.

XII. PARTIES BOUND

This Notice shall apply to and be binding upon the parties, their agents, successors, and assignees and upon all persons, contractors, and consultants acting under or on behalf of the parties.

No change in ownership or corporate or partnership status relating to the site will in any way alter the status of the parties or in any way alter their responsibility under this Notice. The parties will be responsible for carrying out all activities required pursuant to this Notice.

XIII. FAILURE TO COMPLY WITH THIS NOTICE

Pursuant to Section 55.3(g) of the Act, 415 ILCS 5/55.3(g), the owner or operator of any accumulation of used or waste tires at which the Illinois EPA has taken action under Section 55.3 of the Act, 415 ILCS 5/55.3, shall be liable for all costs thereof incurred by the State of Illinois, including reasonable costs of collection.

Pursuant to Section 55.3(h) of the Act, 415 ILCS 5/55.3(h), if a person fails without sufficient cause to take preventive or corrective action in accordance with this Notice, such failure may subject such person to liability to the State of Illinois for punitive damages in an amount at least equal to, and not more than two times, the amount of any costs incurred by the State as a result of such failure. The punitive damages shall be in addition to any costs recovered from the liable person pursuant to Section 55.3(g) of the Act, and in addition to any other penalty or relief provided by the Act or any other law.

XIV. TERMINATION AND SATISFACTION

The provisions of this Notice shall be deemed satisfied upon the parties receipt of written notice from the Illinois EPA that they have demonstrated to the satisfaction of the Illinois EPA, that all of the terms of this Notice, including any additional tasks which the Illinois EPA has determined to be necessary, have been completed.

By: Thomas V. Skinner
Thomas V. Skinner, Director
Illinois EPA

DATE: 9/28/00

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

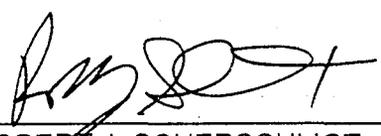
PROOF OF SERVICE

I, the undersigned, on oath, state that I have served the attached Notice Pursuant to Section 55.3(d) of the Environmental Protection Act upon the persons or entities to whom it is directed, by delivering a copy to:

John Stephenson
Post Office Box 386
Barlow, Kentucky 42024

City of Cairo
Attention: Mayor James E. Wilson
Post Office Box 393
Cairo, Illinois 62914

and sending it by Certified Mail, return receipt requested, from Springfield, Illinois on April 27, 2000 with sufficient postage affixed.

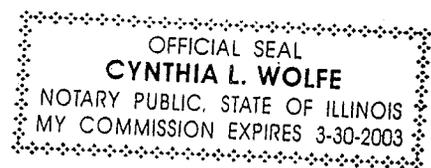


ROBERT J. SCHERSCHLIGT
Assistant Counsel
Division of Legal Counsel

SUBSCRIBED AND SWORN TO BEFORE ME

this 27th day of April, 1998: 2000


Notary Public





ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

1021 NORTH GRAND AVENUE EAST, P.O. BOX 19276, SPRINGFIELD, ILLINOIS 62794-9276

RENEE CIPRIANO, DIRECTOR

217/782-5544

TDD 217/782-9143

May 17, 2002

CERTIFIED MAIL -
RETURN RECEIPT REQUESTED

7000 0520 0012 5645 5956

Honorable James E. Wilson
Mayor
City of Cairo
P.O. Box 393
Cairo, Illinois 62914-0393

Re: Corrective Action Reimbursement Demand Letter
0030055030 - Alexander County
Cairo / City of Cairo Maintenance Garage
Compliance File

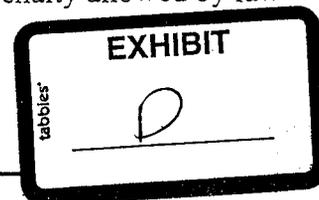
Dear Mayor Wilson:

This letter is in reference to corrective action taken by the Illinois Environmental Protection Agency ("Illinois EPA") at the above-referenced site involving the removal of used or waste tires. Pursuant to an April 25, 2000 notice given to the City under Section 55.3(d) of the Illinois Environmental Protection Act ("Act") (415 ILCS 5/55.3(d)) and the corrective action authority of Section 55.3(e) of the Act (415 ILCS 5/55.3(e)), the Illinois EPA removed approximately 75 tons of used or waste tires from the site during July 2000.

Pursuant to Section 55.3(g) of the Act (415 ILCS 5/55.3(g)), you are liable to the Illinois EPA for all reasonable costs incurred in performing the corrective action. In addition, you are liable under Section 55.3(h) for additional punitive damages of up to two times the amount of costs incurred by the State of Illinois in performing the corrective action under Section 55.3(e) of the Act (415 ILCS 5/55.3(e, h)).

The Illinois EPA incurred costs in the amount of \$14,970.50 in connection with the corrective action at this site. You are the owner of this site, and demand is hereby made upon you for \$14,970.50. If the Illinois EPA does not receive this sum within thirty (30) days of the receipt of this letter, the Illinois EPA will refer this matter to the Illinois Attorney General's Office for the filing of a formal complaint. Such a complaint will seek cost recovery, punitive damages, and the statutory maximum penalty allowed by law

GEORGE H. RYAN, GOVERNOR



Honorable James E. Wilson

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as well as attorney's fees and court costs. The right to seek injunctive relief, additional penalties, corrective action costs, attorney's fees and/or court costs is expressly reserved by the Illinois EPA.

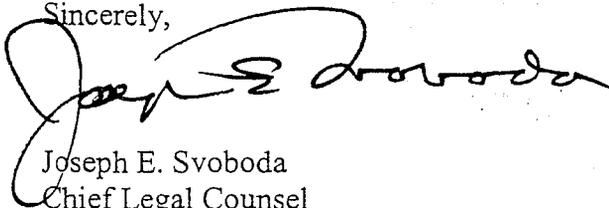
A certified check or money order payable to the "Environmental Protection Agency, for deposit in the Used Tire Management Fund" should be sent to the following address within thirty (30) days of the receipt of this letter:

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

The certified check or money order should indicate your name, social security number or federal employer's identification number, and the Illinois EPA site number 0030055030.

If you have any questions contact Assistant Counsel Greg Richardson of the Division of Legal Counsel at 217/782-5544. Thank you for your attention to this matter.

Sincerely,



Joseph E. Svoboda
Chief Legal Counsel
Division of Legal Counsel

cc: James A. Flummer, City Attorney, P.O. Box 588, 3305 Sycamore Street, Cairo,
Illinois 62914