

ILLINOIS POLLUTION CONTROL BOARD
September 4, 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 03-117
)	(Enforcement - Land)
BI-STATE TIRE, INC., an Illinois corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by D.C. Karpziel):

On February 5, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Bi-State Tire, Inc. (Bi-State Tire). The complaint concerns alleged used or waste tire violations at Bi-State Tire's tire business facility, which is located at 730 31st Avenue in Rock Island, Rock Island County. The parties now seek to settle. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

In the complaint, the People alleged that Bi-State Tire violated the Environmental Protection Act (Act) (415 ILCS 5/55(a)(4), (e) (2002)) and Board regulations (35 Ill. Adm. Code 848.202(b)(1), (4), (5), (c)(5)) by creating used or waste tire piles outside without adequate aisle space, by failing to timely drain water from and prevent water from accumulating in used or waste tires, and, for a site with more than 500 used or waste tires, by improperly placing or accumulating used or waste tires. *See* 415 ILCS 5/31(c)(1) (2002), *amended by* P.A. 93-152, eff. July 10, 2003; 35 Ill. Adm. Code 103.204.

On July 3, 2003, the People filed a stipulation and proposed settlement with Bi-State Tire, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2002), *amended by* P.A. 93-152, eff. July 10, 2003). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002), *amended by* P.A. 93-152, eff. July 10, 2003), 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. Notice was published in *The Dispatch* and *The Rock Island Argus* on August 3, 2003. 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) (2002), *amended by* P.A. 93-152, eff. July 10, 2003; 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. *See* 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 respondent'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) (2002), *amended by* P.A. 93-152, eff. July 10, 2003), which bears on the reasonableness of the circumstances surrounding the alleged violations. Among other things, the stipulation states that Bi-State Tire has subsequently complied with the Act and Board rules. The Board finds that the parties have satisfied Section 103.302.

The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2002), *amended by* P.A. 93-152, eff. July 10, 2003), which may mitigate or aggravate the civil penalty amount. Bi-State Tire does not admit the alleged violations, but agrees to pay a \$6,000 civil penalty, which the People state will serve to deter further violations. 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. Bi-State Tire must pay a civil penalty of \$6,000 as follows:
 - a. \$1,000 within 30 days after the date of this order;
 - b. \$1,000 within six months after the date of this order;
 - c. \$1,000 within one year after the date of this order;
 - d. \$1,500 within 18 months after the date of this order; and
 - e. \$1,500 within two years after the date of this order.
3. Bi-State Tire must pay the civil penalty by certified check or money order, payable to the "Illinois Environmental Protection Agency, for deposit into the Environmental Protection Trust Fund." The case number, case name, and Bi-State Tire's federal employer identification number must be included on each certified check or money order.
4. Bi-State Tire must send each certified check or money order to:

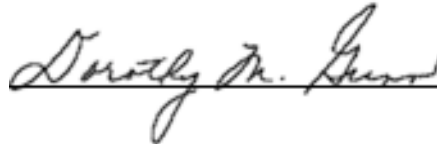
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002), *amended by* P.A. 93-152, eff. July 10, 2003) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
6. Bi-State Tire must cease and desist from future 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) (2002); *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 September 4, 2003, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board