

ILLINOIS POLLUTION CONTROL BOARD
January 22, 2004

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 04-106
) (Enforcement – Cost Recovery)
THOMAS GRAY, an individual, STEVE)
WHYTE, an individual, GLADYS WHYTE,)
an individual, and WILLIAM McCOY, an)
individual,)
)
Respondents.)

ORDER OF THE BOARD (by T.E. Johnson):

On December 29, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Thomas Gray, Steve Whyte, Gladys Whyte and William McCoy (respondents). The complaint is a cost recovery to recover costs the Illinois Environmental Protection Agency (Agency) allegedly incurred in undertaking corrective or preventative action to remove the accumulation of used and waste tires on a site owned by respondents in Momence, Kankakee County. For the reasons below, the Board accepts the complaint for hearing.

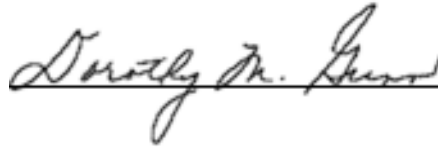
Under the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2002)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2002); 35 Ill. Adm. Code 103. In this case, the People allege that the respondents are liable under Section 55.3(d) of the Act (415 ILCS 5/55.3(d) (2002)) for failing to reimburse the State for any portion of the \$131,902.48 expended in cleaning up the site. The People also allege that by failing without sufficient cause to take preventive or corrective action pursuant to notice given under Section 55.3(d) of the Act, the respondents are liable to the State of Illinois for punitive damages equal to at least \$131,902.48 and up to \$263,804.96. The People ask the Board to find that the respondents failed without sufficient cause to take preventive or corrective action pursuant to notice issued under Section 55.3(d) of the Act; to order respondents to pay at least \$131,902.498 to the Used Tire Management Fund, and to pay at least \$131,902.48 and up to \$263,804.96 as punitive damages; and to cease and desist from further violations, and to pay the People's attorney fees and costs expended in pursuing this action. |

The Board finds that the complaint meets the content requirements of the Board's procedural rules and accepts the complaint for hearing. *See* 35 Ill. Adm. Code 103.204(c), (f), 103.212(c). A respondent's failure to file an answer to a complaint within 60 days after receiving the complaint may have severe consequences. Generally, if the respondent fails within that timeframe to file an answer specifically denying, or asserting insufficient knowledge to form

a belief of, a material allegation in the complaint, the Board will consider the respondent to have admitted the allegation. *See* 35 Ill. Adm. Code 103.204(d). The Board directs the hearing officer to proceed expeditiously to hearing.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 22, 2004, 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