



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

September 2, 2009

PCB10-19

John T. Therriault Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

RECEIVED
CLERK'S OFFICE
SEP 08 2009
STATE OF ILLINOIS
Pollution Control Board

Re: ***People v. Marathon Tire Service of Olney, Inc.***

Dear Clerk:

Enclosed for filing please find the original and ten copies of a Notice of Filing, Entry of Appearance and Complaint in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in black ink that reads "Christine Zeivel". The signature is written in a cursive style.

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

CZ/pjk
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
MARATHON TIRE SERVICE OF OLNEY,)
INC., an Illinois corporation,)
)
Respondent.)

PCB No. 10-19
(Enforcement)

RECEIVED
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STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

To: Marathon Tire Service of Olney, Inc.
c/o Rodney K. Dickerson
220 N. West Street
Olney, IL 62450

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.

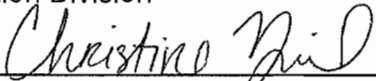
FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2006), to correct the pollution alleged in the Complaint filed in this case.

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: 
CHRISTINE ZEIVEL
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: September 2, 2009

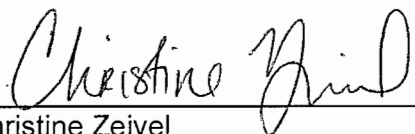
CERTIFICATE OF SERVICE

I hereby certify that I did on September 2, 2009, 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: Marathon Tire Service of Olney, Inc.
c/o Rodney K. Dickerson
220 N. West Street
Olney, IL 62450

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

To: John T. Therriault, Assistant Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601



Christine Zeivel
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS)

Complainant,)

vs.)

MARATHON TIRE SERVICE OF OLNEY,)
INC., an Illinois corporation,)

Respondent.)

PCB No. 10-19
(Enforcement)

RECEIVED
CLERK'S OFFICE

SEP 08 2009

ENTRY OF APPEARANCE

STATE OF ILLINOIS
Pollution Control Board

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, CHRISTINE ZEIVEL, Assistant Attorney General of the State of Illinois, hereby enters her 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: Christine Zeivel
CHRISTINE ZEIVEL
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: September 2, 2009

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
MARATHON TIRE SERVICE OF)
OLNEY, INC.,)
an Illinois Corporation,)
)
Respondent.)

PCB NO. 10-19
(Enforcement - Land)

RECEIVED
CLERK'S OFFICE
SEP 08 2009
STATE OF ILLINOIS
Pollution Control Board

COMPLAINT

The PEOPLE OF THE STATE OF ILLINOIS, by 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, MARATHON TIRE SERVICE OF OLNEY, INC., as follows:

COUNT I
TIRE STORAGE VIOLATIONS

1. This Count is brought by 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 ("the Act"), 415 ILCS 5/31 (2008).

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 (2008), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board.

3. The Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2008), after providing the Respondent with notice and opportunity for a meeting with the Illinois EPA.

4. Respondent, MARATHON TIRE SERVICE OF OLNEY, INC. ("MARATHON TIRE"), is and was at all times relevant to this Complaint, an Illinois corporation in good standing and authorized to do business in the State of Illinois. MARATHON TIRE is a retail tire business and general automotive repair shop located at 220 N. West Street, Olney, Richland County, Illinois ("site").

5. Section 55 of the Act, 415 ILCS 5/55 (2008), provides, 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 . . . of any used or waste tire in violation of any regulation or standard adopted by the Board.

6. Section 3.315 of the Act, 415 ILCS 5/3.315 (2008) provides the following definition:

"Person" is an individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

7. Sections 54.09, 54.12, and 54.13 of the Act, 415 ILCS 5/54.09, 5/54.12, 5/54.13 (2008), respectively, provide, in pertinent part, the following definitions:

"Storage" means any accumulation of used tires that does not constitute disposal. At a minimum, such an accumulation must be an integral part of the systematic alteration, reuse, reprocessing or conversion of the tires in the regular course of business.

"Tire storage site" means a site where used tires are stored or processed. . . .

“Used tire” means a worn, damaged, or defective tire that is not mounted on a vehicle.

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

Requirements

* * *

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

* * *

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. * * *

* * *

9. On March 22, 2006, an inspector from the Illinois EPA conducted an inspection of the site. During this inspection, over five hundred (500) unmounted and worn tires were stored at the site. Uncovered tires were present outside and water had accumulated in the tires.

10. On January 14, 2008, the Illinois EPA reinspected the site. During this inspection, unmounted and worn tires were stored at the site. Uncovered tires were present outside and water had accumulated in the tires.

11. As a corporation, MARATHON TIRE is a “person” as this term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2008).

12. The unmounted and worn tires at the site constitute “used” tires as that term is defined in Section 54.13 of the Act, 415 ILCS 5/54.13 (2008).

13. The accumulation of used tires at the site constitutes “storage” as that term is defined in Section 54.09 of the Act, 415 ILCS 5/54.09 (2008).

14. As a site where used tires are stored, Respondent's site constitutes a "tire storage site" as that term is defined in Section 54.12 of the Act, 415 ILCS 5/54.12 (2008).

15. By storing used and/or waste tires for more than 14 days without altering, reprocessing, converting, covering, or otherwise preventing the tires from accumulating water, the Respondent, MARATHON TIRE, violated Section 848.202(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 848.202(b), and Sections 55(a)(4) and (e) of the Act, 415 ILCS 5/55(a)(4), 55(e) (2008).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, MARATHON TIRE SERVICE OF OLNEY, INC.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and
- F. Grant such other and further relief as the Board deems appropriate.

COUNT II
FAILURE TO MAINTAIN RECORDS

1-14. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count I as paragraphs 1 through 14 of this Count II.

15. Section 848.202(c) of the Board's Management of Used and Waste Tire Regulations, 35 Ill. Adm. Code 848.202(c), provides:

- c. In addition to the requirements set forth in subsection (b), the owner or operator shall comply with the following requirements at sites at which more than 500 used or waste tires are located.
 - 1) A contingency plan which meets the requirements of Section 848.203 shall be maintained.
 - 2) The recordkeeping and reporting requirements of Subpart C shall be met.

16. Section 848.302(a) of the Board's Management of Used and Waste Tire Regulations, 35 Ill. Adm. Code 848.302(a), provides:

- a) The owner and operator shall keep a record of used and waste tires at the site. The owner and operator shall keep the following records:
 - 1) Daily Tire Record
 - 2) Annual Tire Summary

17. Section 848.303 of the Board's Management of Used and Waste Tires Regulations, 35 Ill. Adm. Code 848.303, provides, in pertinent part, as follows:

- a) The owner or operator shall maintain the Daily Tire Record at the site; such record shall include the day of the week, the date, the Agency designated site number and the site name and address.
- * * *
- b) The following information relative to used and waste tires shall be recorded in the Daily Tire Record:
 - 1) The weight or volume of used or waste tires received at the site during the operating business day

- 2) The weight or volume of used or waste tires transported from the site during the operating business day and the destination of the tires so transported.
- 3) The total number of used or waste tires remaining in storage at the conclusion of the operating business day determined in terms of the passenger tire equivalent (PTE) in accordance with subsection (c).
- 4) The weight or volume of used or waste tires burned or combusted during the operating business day.

* * *

18. On March 22, 2006, the Respondent did not have a contingency plan, daily tire records, or an annual tire summary prepared or available.

19. On January 14, 2008, the Respondent did not have adequate daily tire records or an annual tire summary prepared or available.

20. By failing to properly prepare a contingency plan, daily tire records, and an annual tire summary and by conducting a tire storage operation in violation of the Board's recordkeeping and reporting requirements, the Respondent, MARATHON TIRE, violated Sections 848.202(c), 848.302(a) and 848.303 of the Board's Used Waste and Tires Regulations, 35 Ill. Adm. Code 848.202(c), 848.302(a), 848.303, and Sections 55(a)(4) and 55(e) of the Act, 415 ILCS 5/55(a)(4), 55(e) (2008).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, MARATHON TIRE SERVICE OF OLNEY, INC.:

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

- B. Finding that the Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and
- F. Grant such other and further relief as the Board deems appropriate.

COUNT III
FAILURE TO PAY TIRE STORAGE SITE FEE

1-14. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count I as paragraphs 1 through 14 of this Count III.

15. Section 55(d) of the Act, 415 ILCS 5/55(d) (2008), provides, in pertinent part, 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 . . .
 - i) registers the site with the Agency
 - * * *
 - iv) pays the fee required under subsection (b) of Section 55.6

16. Section 55.6(b) of the Act, 415 ILCS 5/55.6(b) (2008), provides, in pertinent part, as follows:

- b) [T]he 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.

17. Section 21(k) of the Act, 415 ILCS 5/21(k) (2008), provides, in pertinent part, as follows:

No person shall:

* * *

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

* * *

18. On January 14, 2008, the Illinois EPA determined that the Respondent had failed to pay the annual fee for 2007 and 2008.

19. By failing to pay the annual fees for a tire storage site, the Respondent, MARATHON TIRE, violated Sections 55(d), 55.6(b) and 21(k) of the Act, 415 ILCS 5/55(d), 55.6(b), 21(k) (2008).

PRAYER FOR RELIEF


WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Board enter an Order against the Respondent, MARATHON TIRE SERVICE OF OLNEY, INC.:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that the Respondent has violated the Act as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and
- F. Grant such other and further relief as the Board deems appropriate.

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, Chief
Assistant Attorney General
Environmental Bureau

Of Counsel
CHRISTINE ZEIVEL
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: September 2, 2009