

COPY

**IN THE CIRCUIT COURT FOR THE FIFTH JUDICIAL CIRCUIT
COLES COUNTY, ILLINOIS**

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. **KWAME RAOUL, Attorney General**)
of the State of Illinois,)
)
Plaintiff,)
)
v.)
)
RICHARD PURDY and MONIKA PURDY,)
)
Defendants.)

**No. 2019-CH-
2019CH10**

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

The PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of Defendants, RICHARD PURDY and MONIKA PURDY, as follows:

COUNT I
TIRE DISPOSAL VIOLATIONS

1. This Complaint is brought on behalf of the People of the State of Illinois, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, on his own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), pursuant to Section 42(d) and (e) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/42(d) and (e) (2016).

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 (2016), and charged, *inter alia*, with the duty of enforcing the Act.

3. The Illinois Pollution Control Board (“Board”) is an independent board

created by the Illinois General Assembly in Section 5 of the Act, 415 ILCS 5/5 (2016), and charged, *inter alia*, with the duty of promulgating standards and regulations under the Act.

4. At all times relevant to this complaint, Defendants RICHARD PURDY and MONIKA PURDY (“Defendants”) have owned the 22.64 acre property located at 23255E CR 1470N, Oakland, Coles County, Illinois, 61953 (the “Site”).

5. Defendants previously operated an auto salvage yard at the Site known as Coles County Auto Salvage Yard, which has never been registered with the Illinois Secretary of State to do business in Illinois.

6. Illinois EPA conducted an inspection of the Site on February 23, 2017 in response to a citizen complaint that Defendants were burning tires at the Site.

7. At the time of the February 23, 2017 inspection, Illinois EPA observed used or waste tires both on and off rim accumulated in piles at the Site. Based on Illinois EPA’s observations and information subsequently provided by the Defendant, there are approximately 15,000 used and waste tires at the Site.

8. At the time of the February 23, 2017 inspection, used or waste tires were placed outside on the ground without cover, exposing the used or waste tires to the elements.

9. At the time of the February 23, 2017 inspection, many of the used or waste tires on the Site were covered in overgrown vegetation or commingled with vegetation.

10. At the time of the February 23, 2017 inspection, many of the used or waste tires that were off rim had accumulated water.

11. At the time of the February 23, 2017 inspection, many of the used or waste tires were accumulated in piles less than 40 feet from vegetation.

12. At the time of the February 23, 2017 inspection, there were burn piles containing

the burnt remnants of approximately 200 used or waste tires, including metal tire beads and rims.

- 13. Defendants have never registered the Site as a tire storage site with Illinois EPA.
- 14. The Site has never been permitted as a sanitary landfill by Illinois EPA.
- 15. Section 55 of the Act, 415 ILCS 5/55 (2016), provides in pertinent part:

(a) No person shall:

- (1) Cause or allow the open dumping of any used or waste tire.

* * *

- (5) Abandon, dump or dispose of any used or waste tire on private or public property, except in a sanitary landfill approved by the Agency pursuant to regulations adopted by the Board.

* * *

- (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.

* * *

(k) No person shall:

- (1) Cause or allow water to accumulate in used or waste tires.

* * *

16. Sections 848.202(a)(1), (2) and (3) of the Board regulations, 35 Ill. Adm. Code 848.202(a)(1)-(3), provide in pertinent part:

(a) Owners and operators of any site at which more than 50 used or waste tires are located at any one time must comply with the following requirements:

- (1) No used or waste tires shall be placed or accumulated outside of a building or fully enclosed

container, unless the used or waste tires are placed on or accumulated in a storage pile that is separated from:

* * *

(E) all trees by a firebreak that is not less than 100 feet wide;

(F) all grass, weeds, brush, and combustible ground vegetation by a firebreak that is not less than 40 feet wide; and

* * *

(2) No used or waste tires shall be placed or accumulated outside of a building or fully enclosed container, unless they are placed on or accumulated in a storage pile that:

(A) is no more than 10 feet high by 50 feet wide by 100 feet long; and

* * *

(3) No used or waste tires shall be placed or accumulated on site unless they are drained of water and prevented from accumulating water thereafter.

* * *

17. Section 3.315 of the Act, 415 ILCS 5/3.315 (2016), provides the following definition:

“Person” is any 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.

18. Section 54.11 of the Act, 415 ILCS 5/54.11 (2016), provides the following definition:

“Tire disposal site” means a site where used tires have been disposed of other than a sanitary landfill permitted by the Agency.

19. Section 54.13 of the Act, 415 ILCS 5/54.13 (2016), provides the following definition:

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

20. Section 54.16 of the Act, 415 ILCS 5/54.16 (2016), provides the following definition:

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

21. Section 54.04 of the Act, 415 ILCS 5/54.04 (2016), provides the following definition:

“Disposal” means the placement of used tires into or on any land or water except as an integral part of systematic reuse or conversion in the regular course of business.

22. Section 3.460 of the Act, 415 ILCS 5/3.460 (2016), provides as follows:

“Site” means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

23. Section 3.305 of the Act, 415 ILCS 5/3.305 (2016), provides the following definition:

“Open dumping” means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

24. Section 3.385 of the Act, 415 ILCS 5/3.385 (2016), provides the following definition:

“Refuse” means waste.

25. Section 3.535 of the Act, 415 ILCS 5/3.535 (2016), provides the following definition:

“Waste” means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities....

26. Section 3.445 of the Act, 415 ILCS 5/3.445 (2016), provides the following definition:

“Sanitary landfill” means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580, and regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day's operation, or by such other methods and intervals as the Board may provide by regulation.

27. Defendants are each a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2016).

28. The tires disposed of at the Site are “used tires” and “waste tires” as those terms are defined in Sections 54.13 and 54.16 of the Act, 415 ILCS 5/54.13 and 54.16 (2016).

29. Used or waste tires were placed at the Site, constituting “disposal” as that term is defined in Section 54.04 of the Act, 415 ILCS 5/54.04 (2016). The Site is therefore a “disposal site” as that term is used in the Act.

30. Materials on the Site including but not limited to used or waste tires, tire beads, and metal rims are “discarded material” and “waste” as that term is defined by Section 3.535 of the Act, 415 ILCS 5/3.535 (2016), and therefore also “refuse” as defined by Section 3.385 of the Act, 415 ILCS 5/3.385 (2016).

31. The consolidation of used or waste tires at the Site constitutes “open dumping” as that term is defined in the Act, 415 ILCS 5/3.305 (2016).

32. Defendants caused or allowed the open dumping of used or waste tires at the Site.

33. By causing or allowing the open dumping of used or waste tires, Defendants violated Section 55(a)(1) of the Act, 415 ILCS 5/55(a)(1) (2016).

34. Defendants abandoned, dumped or disposed of used or waste tires at the Site, which is private property not permitted by Illinois EPA as a sanitary landfill.

35. By abandoning, dumping or disposing of used or waste tires at the Site, Defendants violated Section 55(a)(5) of the Act, 415 ILCS 5/55(a)(5) (2016).

36. Defendants caused or allowed water to accumulate in used or waste tires at the Site.

37. By causing or allowing water to accumulate in used or waste tires, Defendants violated Section 55(k)(1) of the Act, 415 ILCS 5/55(k)(1) (2016).

38. Defendants accumulated used or waste tires in piles near trees without a firebreak at least 100 feet wide.

39. By accumulating used or waste tires near trees without a firebreak at least 100 feet wide, Defendants violated Section 848.202(a)(1)(E) of the Board's regulations, 35 Ill. Adm. Code 848.202(a)(1)(E).

40. Defendants accumulated used or waste tires in piles near grass, weeds, brush, and combustible ground vegetation without a firebreak at least 40 feet wide.

41. By accumulating used or waste tires near grass, weeds, brush, and combustible ground vegetation without a firebreak at least 40 feet wide, Defendants violated Section 848.202(a)(1)(F) of the Board's regulations, 35 Ill. Adm. Code 848.202(a)(1)(F).

42. Defendants accumulated used or waste tires in piles that were more than 10 feet high by 50 feet wide by 100 feet long.

43. By accumulating used or waste tires more than 10 feet high by 50 feet wide by 100 feet long, Defendants violated Section 848.202(a)(2)(A) of the Board's regulations, 35 Ill. Adm. Code 848.202(a)(2)(A).

44. Defendants stored tires without preventing water from accumulating in used or waste tires at the Site.

45. By causing or allowing water to accumulate in used or waste tires, Defendants violated Section 848.202(a)(3) of the Board's regulations, 35 Ill. Adm. Code 848.202(a)(3).

46. Defendants caused or allowed the operation of a tire disposal site in violation of regulations adopted by the Board.

47. By causing or allowing the operation of a tire disposal site in violation of regulations adopted by the Board, Defendants violated Section 55(e) of the Act, 415 ILCS 5/55(e) (2016).

48. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Court enter an order against Defendants, RICHARD PURDY and MONIKA PURDY, granting the following relief:

A. Find that Defendants have violated Sections 55(a)(1), 55(a)(5), 55(a)(6), 55(e) and 55(k)(1) of the Act, 415 ILCS 5/55(a)(1), (5), (6), (e) and (k)(1) (2016), and Sections 848.202(a)(1)(E), 848.202(a)(1)(F), 848.202(a)(2)(A) and 848.202(a)(3) of the Board's regulations, 35 Ill. Adm. Code 848.202(a)(1)(E), (F), (a)(2)(A) and (3);

B. Permanently enjoin Defendants from further violations of the Act and associated regulations, pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2016);

C. Order Defendants to immediately undertake measures to remediate ongoing violations of the Act and associated regulations, including but not limited to ceasing and desisting from the deposition, accumulation, and open burning of used or waste tires at the Site, removing all used and waste tires from the Site to an appropriate facility permitted by the Illinois EPA, and recording all shipments of tires with documentation of records provided to the Illinois EPA, pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2016);

D. Impose upon Defendants for violating provisions of the Act and associated regulations a civil penalty not to exceed the statutory maximum, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016);

E. Award Plaintiff its costs in this matter, including reasonable attorney's fees and costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016); and

F. Grant such other relief as the Court may deem appropriate.

COUNT II
TIRE DISPOSAL RECORDKEEPING, REPORTING,
AND FEE PAYMENT VIOLATIONS

1-29. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 29 of Count I as paragraphs 1 through 29 of this Count II.

30. At the time of the February 23, 2017 inspection, Defendants had not provided notice to Illinois EPA of their tire disposal activity at the Site prior to initiating operations.

31. At the time of the February 23, 2017 inspection, Defendants had not submitted to Illinois EPA registration information including the number of tires accumulated at the Site and compliance certification.

32. At the time of the February 23, 2017 inspection, Defendants were not maintaining and had not submitted to Illinois EPA a contingency plan.

33. At the time of the February 23, 2017 inspection, Defendants were not keeping a Daily Tire Record.

34. At the time of the February 23, 2017 inspection, Defendants were not keeping an Annual Tire Summary.

35. At the time of the February 23, 2017 inspection, Defendants were not maintaining and had not submitted to Illinois EPA tire tracking receipts.

36. At the time of the February 23, 2017 inspection, Defendants had not received written approval from Illinois EPA for a tire removal agreement.

37. At the time of the February 23, 2017 inspection, Defendants were not retaining for a minimum of three (3) years, nor making them available to inspectors for inspection and photocopying, all records required to be kept by the Board regulations.

38. Sections 55(a)(6) and 55(c) of the Act, 415 ILCS 5/55(a)(6) and (c) (2016), provide:

(a) No person shall:

* * *

(6) Fail to submit required reports, tire removal agreements, or Board regulations.

* * *

(c) Any person who sells new or used tires at retail or operates a tire storage site or a tire disposal site which contains more than 50 used or waste tires shall give notice of such activity to the Agency. Any person engaging in such activity for the first time after January 1, 1990, shall give notice to the Agency within 30 days after the date of commencement of the activity. The form of such notice shall be specified by

the Agency and shall be limited to information regarding the following:

- (1) the name and address of the owner and operator;
- (2) the name, address and location of the operation;
- (3) the type of operations involving used and waste tires (storage, disposal, conversion or processing); and
- (4) the number of used and waste tires present at the location.

39. Section 848.202(b) of the Board regulations, 35 Ill. Adm. Code 848.202(b), provides:

(b) In addition to the requirements set forth in subsection (a), owners and operators of any site at which more than 60 tons of used or waste tires are located at any one time must comply with the following requirements.

- (1) The contingency planning and emergency response requirements of Section 848.203 must be met.
- (2) The recordkeeping and reporting requirements of Subpart C must be met.
- (3) A tire storage plan that is designed to ensure compliance with the requirements of this Section must be developed for the site and must be adhered to at all times. A copy of the plan must be maintained on site and must be made available at the site for inspection and photocopying by the Agency during normal business hours.

40. Section 848.203 of the Board regulations, 35 Ill. Adm. Code 848.203, provides:

Owners and operators of any site at which more than 60 tons of used or waste tires are located at any one time must:

- (a) establish and maintain, for each site that is subject to the requirements of this Section, a contingency plan that:

- (1) minimizes the hazards to human health and the environment from fires and run-off of contaminants resulting from fire and hazards from disease spreading mosquitos and other nuisance organisms that may breed in water accumulated in used or waste tires;
 - (2) is carried out immediately whenever there is a fire or evidence of mosquito production in used or waste tires;
 - (3) describes the actions site personnel must take in response to fires, run-off resulting from fires, and mosquito breeding in used or waste tires;
 - (4) describes evacuation procedures, including, but not limited to, evacuation signals, primary evacuation routes, and alternate evacuation routes to be used when the primary routes could be blocked;
 - (5) contains an up-to-date emergency equipment list that not only identifies all emergency equipment at the facility, such as fire-extinguishing systems, fire-suppression material, spill-control equipment, decontamination equipment, and communication and alarm systems (internal and external), but also describes the physical location and capabilities of each listed item; and
 - (6) provides the name, address, and telephone number of an employee designated as the primary emergency coordinator responsible for coordinating emergency response measures at the site, as well as an up-to-date list of all alternate emergency coordinators, listed in the order in which they will assume responsibility for coordinating emergency response measures at the site in the event that the primary emergency coordinator or another alternate emergency coordinator is unavailable;
- (b) ensure that all emergency equipment at the site is at all times clean and fit for its intended purpose;
 - (c) submit a copy of the contingency plan, and all revisions to the plan, to the local fire department and obtain, and keep on file for review by the Agency, a certificate stating that

the plan and all plan revisions have been submitted to and approved by the fire department;

- (d) maintain a copy of the contingency plan and all revisions to the plan at the site at all times and make the plan available for inspection and photocopying by the Agency during normal business hours;
- (e) review and amend the contingency plan within 30 days after:
 - (1) any fire occurs at the site;
 - (2) the site changes in its design, construction, operation, maintenance, or other characteristics in a way that increases the potential for a fire at the site or the release of run-off from a fire at the site;
 - (3) the list of emergency coordinators for the site changes; or
 - (4) the list of emergency equipment at the site changes;
- (f) ensure that, at all times, the primary emergency coordinator or an alternate emergency coordinator is either on the site premises or on call; that the primary emergency coordinator and alternate emergency coordinators are familiar with all aspects of the contingency plan, all operations and activities at the site, the location of all records within the site and the site layout; and that the primary emergency coordinator and all alternate emergency coordinators have the authority to commit the resources needed to carry out the contingency plan;
- (g) notify the Agency immediately if a fire occurs at the site and immediately begin managing, in accordance with all applicable federal and State laws and regulations, all contaminated soils, contaminated waters, and other wastes and materials resulting from the fire; and
- (h) within 15 days after each incident that requires implementation of the contingency plan, submit to the Agency in writing an incident report that includes, at a minimum:

- (1) the name, address, and telephone number of the site owners and operators;
- (2) the name, address, and telephone number of the site;
- (3) the date, time, and type of incident (e.g., fire or explosion);
- (4) the type and quantity of materials involved in the incident;
- (5) the extent of injuries, if any;
- (6) an assessment of actual or potential hazards to human health or the environment as a result of the incident;
- (7) the estimated quantity and disposition of released material that resulted from the incident; and
- (8) a plan and schedule for completing all site remediation required under all applicable federal and State laws and regulations.

41. Section 848.301(a) of the Board regulations, 35 Ill. Adm. Code 848.301(a), provides:

- (a) Except to the extent exempted under subsection (b), the owners and operators of any tire storage site at which more than 60 tons of used or waste tires are located at any one time, as well as the owners and operators of any tire disposal site at which more than 60 tons of used or waste tires are located at any one time, are subject to this Subpart.

42. Section 848.302 of the Board regulations, 35 Ill. Adm. Code 848.302, provides:

- (a) The owner and operator must keep the following records:
 - (1) Daily Tire Record;
 - (2) Annual Tire Summary; and
 - (3) Tire Tracking Receipts.

- (b) Each Annual Tire Summary submitted to the Agency shall be in a form as prescribed by the Agency.

43. Section 848.303 of the Board regulations, 35 Ill. Adm. Code 848.303, provides:

- (a) The owner or operator must maintain a Daily Tire Record at the site. The Daily Tire Record must include the day of the week, the date, the Agency designated site number, the site name and address, and the additional information required under this Section.

- (b) Information relative to the daily receipt and disposition of used and waste tires at the site must be recorded in the Daily Tire Record, including, but not limited to:

- (1) the name and registration number of each tire transporter who transported used or waste tires to the site during the operating day and the weight, in tons, of used or waste tires received at the site from the transporter during the operating day;

- (2) the name and registration number of each tire transporter who transported used or waste tires from the site during the operating day, the weight, in tons, of used or waste tires transported from the site by the transporter during the operating day, and the name, address, and telephone number of the destination facility;

- (3) the weight, in tons, of used or waste tires burned or combusted at the site during the operating day; and

- (4) the weight, in tons, of used or waste tires remaining at the site at the conclusion of the operating day.

- (c) Entries on the Daily Tire Record required to be made under this Section must be made by the end of each operating day.

44. Section 848.304 of the Board regulations, 35 Ill. Adm. Code 848.304, provides:

- (a) The owner or operator must submit an Annual Tire Summary to the Agency for each calendar year. The Annual Tire Summary must be in a form prescribed by the Agency and must include the Agency designated site

number, the site name and address, and the calendar year for which the summary applies.

- (b) Information relative to the annual receipt and disposition of used and waste tires at the site must be recorded in the Annual Tire Summary, including, but not limited to:
 - (1) the weight, in tons, of used or waste tires received at the site during the calendar year;
 - (2) the weight, in tons, of used or waste tires transported from the site during the calendar year,
 - (3) the weight, in tons, of used or waste tires burned or combusted at the site during the calendar year; and
 - (4) the weight, in tons, of used or waste tires remaining in storage at the site at the conclusion of the calendar year.
- (c) The Annual Tire Summary must be received by the Agency on or before January 31 of each year and must cover the preceding calendar year.

45. Section 848.307 of the Board regulations, 35 Ill. Adm. Code 848.307, provides:

Copies of all records required to be kept under this Subpart shall be retained by the owner and operator for three years and shall be made available at the site during the normal business hours of the operator for inspection and photocopying by the Agency.

46. Section 848.404(a) of the Board regulations, 35 Ill. Adm. Code 848.404(a),

provides:

- (a) No later than January 1 of each year, the owner or operator must submit to the Agency, for approval, a written estimate of the cost of removing the maximum number of used and waste tires that will be accumulated at the site at any time. This cost estimate must be submitted by the owner or operator along with the annual notice of activity required under Section 55(d) of the Act.

47. Section 848.501(a) of the Board regulations, 35 Ill. Adm. Code 848.501(a), provides:

- (a) The owner or operator of a tire disposal site must obtain written approval from the Agency of a tire removal agreement submitted pursuant to this Subpart unless:
 - (1) the owner or operator has entered into a written agreement to participate in a consensual removal action under Section 55.3(c) of the Act [514 ILCS 5/55(d)(2)(ii); or
 - (2) the owner or operator has received a permit from the Agency pursuant to the requirements of Subtitle G: Waste Disposal for the disposal of solid waste at landfills.

48. Defendants failed to submit to Illinois EPA a tire removal agreement for the Site.

49. By failing to submit to Illinois EPA and obtain approval of a tire removal agreement, Defendants violated Section 55(a)(6) of the Act, 415 ILCS 5/55(a)(6) (2016), and Section 848.501 of the Board regulations, 35 Ill. Adm. Code 848.501.

50. Defendants did not give notice to Illinois EPA of their tire disposal activity within thirty (30) days of the commencement of the activity with the notification information required by Section 55(c) of the Act, 415 ILCS 5/55(c) (2016).

51. By not giving proper notice to Illinois EPA of their tire disposal activity within thirty (30) days of the commencement of the activity, Defendants violated Section 55(c) of the Act, 415 ILCS 5/55(c) (2016).

52. Defendants own and operate a tire disposal site at which more than sixty (60) tons of used or waste tires have been, and are currently, located.

53. Defendants failed to develop and maintain a contingency plan that meets the requirements of Section 848.203 of the Board regulations, 35 Ill. Adm. Code 848.203.

54. By failing to develop and maintain a contingency plan, Defendants violated Section 848.202(b)(1) of the Board regulations, 35 Ill. Adm. Code 848.202(b)(1).

55. Defendants failed to maintain a contingency plan that meets the requirements of Section 848.203 of the Board regulations, 35 Ill. Adm. Code 848.203.

56. By failing to maintain a contingency plan, Defendants violated Section 848.203 of the Board regulations, 35 Ill. Adm. Code 848.203.

57. By owning and operating a tire disposal site at which more than sixty (60) tons of used or waste tires have been, and are currently, located, Defendants are subject to the provisions of Part 848, Subpart C of the Board Regulations for the Management of Used and Waste Tires, 35 Ill. Adm. Code 848.301 *et seq.*

58. Defendants failed to maintain a Daily Tire Record and an Annual Tire Summary.

59. By failing to maintain a Daily Tire Record and Annual Tire Summary, Defendants violated Sections 848.302(a)(1) and (a)(2) of the Board regulations, 35 Ill. Adm. Code 848.302(a)(1)-(2).

60. Defendants failed to submit to Illinois EPA an Annual Tire Summary.

61. By failing to submit to Illinois EPA an Annual Tire Summary, Defendants violated Section 848.302(b) of the Board regulations, 35 Ill. Adm. Code 848.302(b), and Section 55(a)(6) of the Act, 415 ILCS 5/55(a)(6) (2016).

62. Defendants failed to maintain a Daily Tire Record and information relative to the receipt and disposition of used and waste tires at the Site.

63. By failing to maintain a Daily Tire Record and relevant information, Defendants violated Section 848.303 of the Board regulations, 35 Ill. Adm. Code 848.303.

64. Defendants failed to maintain and submit an Annual Tire Summary with

information relative to the annual receipt and disposition of used and waste tires at the Site.

65. By failing to maintain and submit an Annual Tire Summary including all relevant information, Defendants violated Section 848.304 of the Board regulations, 35 Ill. Adm. Code 848.304, and Section 55(a)(6) of the Act, 415 ILCS 5/55(a)(6) (2016).

66. Defendants failed to keep and make available at the Site all records required by Subpart C for a period of at least three years.

67. By failing to keep and make available all relevant records, Defendants violated Section 848.307 of the Board regulations, 35 Ill. Adm. Code 848.307.

68. Defendants failed to comply with the recordkeeping and reporting requirements of Part 848, Subpart C of the Board Regulations for the Management of Used and Waste Tires.

69. By failing to comply with the recordkeeping and reporting requirements of Subpart C, Defendants violated Section 848.202(b)(2) of the Board regulations, 35 Ill. Adm. Code 848.202(b)(2).

70. Defendants failed to submit to Illinois EPA a written cost estimate of removing the maximum number of tires accumulated at the Site at any one time along with its annual notice of activity.

71. By failing to submit a written estimate of tire removal costs, Defendants violated Section 848.404(a) of the Board regulations, 35 Ill. Adm. Code 848.404(a), and Section 55(a)(6) of the Act, 415 ILCS 5/55(a)(6) (2016).

72. By causing or allowing the operation of a tire disposal site in violation of regulations adopted by the Board, Defendants violated Section 55(e) of the Act, 415 ILCS 5/55(e) (2016).

73. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Court enter an order against Defendants, RICHARD PURDY and MONIKA PURDY, granting the following relief:

A. Find that Defendants have violated Sections 55(a)(6), 55(c), and 55(e) of the Act, 415 ILCS 5/55(a)(6), (c), and (e) (2016), and Sections 848.202(b)(1), 848.202(b)(2), 848.202(b)(3), 848.203, 848.302(a)(1), 848.302(a)(2), 848.302(b), 848.303, 848.304, 848.307, 848.404(a) and 848.501(a) of the Board regulations, 35 Ill. Adm. Code 848.202(b)(1)–(3), 848.203, 848.301(a), 848.302(a)(1)–(2), 848.302(b), 848.303, 848.304, 848.307, 848.404(a) and 848.501(a);

B. Permanently enjoin Defendants from further violations of the Act and associated regulations, pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2016);

C. Order Defendants to immediately undertake measures to remediate ongoing violations of the Act and associated regulations, including but not limited to ceasing and desisting from the deposition, accumulation, and open burning of used or waste tires at the Site, removing all used and waste tires from the Site to an appropriate facility permitted by the Illinois EPA, and recording all shipments of tires with documentation of records provided to the Illinois EPA, pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2016);

D. Impose upon Defendants for violating provisions of the Act and associated regulations a civil penalty not to exceed the statutory maximum, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016);

E. Award Plaintiff its costs in this matter, including reasonable attorney's fees and costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016); and

F. Grant such other relief as the Court may deem appropriate.

COUNT III
OPEN BURNING – AIR POLLUTION

1–33. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 33 of Count I as paragraphs 1 through 33 of this Count III.

34. At the time of the February 23, 2017 inspection, there were several areas of the Site where open burning of used or waste tires had occurred.

35. At the time of the February 23, 2017 inspection, there were charred tire remnants including metal tire beads and tire rims from approximately 200 burned tires in areas where burning had occurred.

36. Sections 9(a) and (c) of the Act, 415 ILCS 5/9(a) and (c) (2016), provide:

No person shall:

(a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

* * *

(c) Cause or allow the open burning of refuse, conduct any salvage operation by open burning, or cause or allow the burning of any refuse in any chamber not specifically designed for the purpose and approved by the Agency pursuant to regulations adopted by the Board under this

Act; except that the Board may adopt regulations permitting open burning of refuse in certain cases upon a finding that no harm will result from such burning, or that any alternative method of disposing of such refuse would create a safety hazard so extreme as to justify the pollution that would result from such burning.

37. Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2016), provides:

No person shall:

(p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

* * *

(3) open burning;

38. Section 55(a)(2) of the Act, 415 ILCS 5/55(a)(2) (2016), provides:

(a) No person shall:

* * *

(2) Cause or allow the open burning of any used or waste tire.

39. Section 3.165 of the Act, 415 ILCS 5/3.165 (2016), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

40. Section 3.300 of the Act, 415 ILCS 5/3.300 (2016), provides the following definition:

“Open burning” is the combustion of any matter in the open or in an open dump.

41. Section 3.115 of the Act, 415 ILCS 5/3.115 (2016), provides the following definition:

“Air pollution” is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics

and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

42. The combustion of used or waste tires results in the release into the atmosphere of gaseous matter, which is a “contaminant” as that term is defined in Section 3.165 of the Act, 415 ILCS 5/3.165 (2016).

43. The combustion of used or waste tires releases harmful contaminants into the atmosphere in sufficient quantities as to create, or is likely to create, a nuisance or render the air harmful, detrimental or injurious to public health, safety or welfare.

44. The combustion of used or waste tires causes, or tends to cause, “air pollution,” as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2016).

45. Defendants caused, threatened or allowed the combustion of used or waste tires and therefore the release of contaminants into the atmosphere so as to cause, or tend to cause, air pollution.

46. By causing, threatening or allowing the release of a contaminant so as to cause or tend to cause air pollution, Defendants violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2016).

47. Defendants caused and allowed the open burning of used or waste tires, which are “refuse” as that term is defined in Section 3.385 of the Act, 415 ILCS 5/3.385 (2016), at the Site in a manner that was not approved by Illinois EPA or the Board, in violation of Section 9(c) of the Act, 415 ILCS 5/9(c) (2016).

48. By causing and allowing the open burning of refuse, Defendants violated Section 9(c) of the Act, 415 ILCS 5/9(c) (2016).

49. Defendants caused and allowed open dumping at the Site that resulted in “open burning,” as that term is defined in Section 3.300 of the Act, 415 ILCS 5/3.300 (2016).

50. By causing or allowing open dumping that resulted in open burning, Defendants violated Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2016).

51. Defendants caused or allowed the open burning of used or waste tires at the Site.

52. By causing or allowing the open burning of used and waste tires, Defendants have violated Section 55(a)(2) of the Act, 415 ILCS 5/55(a)(2) (2016).

53. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Court enter an order against Defendants, RICHARD PURDY and MONIKA PURDY, granting the following relief:

A. Find that Defendants have violated Sections 9(a), 9(c), 21(p)(3) and 55(a)(2) of the Act, 415 ILCS 5/9(a) and (c), 21(p)(3) and 55(a)(2) (2016);

B. Permanently enjoin Defendants from further violations of the Act and associated regulations pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2016);

C. Order Defendants to immediately undertake measures to remediate ongoing violations of the Act and associated regulations, including but not limited to ceasing and desisting from the deposition, accumulation, and open burning of used or waste tires on the disposal site, removing all used and waste tires from the Site to an appropriate facility permitted by the Illinois EPA, and recording all shipments of tires with documentation of records provided to the Illinois EPA, pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2016);

D. Impose upon Defendants for violating provisions of the Act and associated regulations a civil penalty not to exceed the statutory maximum, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016);

E. Award Plaintiff its costs in this matter, including reasonable attorney's fees and costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016); and

F. Grant such other relief as the Court may deem appropriate.

COUNT IV
OPEN DUMPING

1-33. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 33 of Count I as paragraphs 1 through 33 of this Count IV.

34. Section 21(a) of the Act, 415 ILCS 5/21(a) (2016), provides:

No person shall:

(a) Cause or allow the open dumping of any waste.

35. Section 3.185 of the Act, 415 ILCS 5/3.185 (2016), provides as follows:

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

36. Materials on the Site including but not limited to used or waste tires, tire beads, and metal rims are discarded material and “waste” as that term is defined by Section 3.535 of the Act, 415 ILCS 5/3.535 (2016), and therefore also “refuse” as defined by Section 3.385 of the Act, 415 ILCS 5/3.385 (2016).

37. Waste was deposited and dumped at the Site in a manner such that the waste had entered the environment and could be emitted into the air or groundwater. The Site is therefore a

“disposal site” as that term is defined and used in Section 3.305 of the Act, 415 ILCS 5/3.305 (2016), defining “open dumping”.

38. The Site has never been permitted by Illinois EPA for the disposal of waste.

39. The consolidation of refuse from various sources at the Site constitutes “open dumping” as that term is defined in Section 3.305 of the Act, 415 ILCS 5/3.305 (2016).

40. Defendants caused or allowed open dumping at the Site.

41. By causing or allowing open dumping at the Site, Defendants violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2016).

42. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Court enter an order against Defendants, RICHARD PURDY and MONIKA PURDY, granting the following relief:

A. Find that Defendants have violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2016);

B. Permanently enjoin Defendants from further violations of the Act, pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2016);

C. Order Defendants to immediately undertake measures to remediate ongoing violations of the Act, including but not limited to ceasing and desisting from the deposition, accumulation, and open burning of waste at the Site, removing all waste from the Site to an appropriate facility permitted by the Illinois EPA, and recording all shipments of waste with

documentation of records provided to the Illinois EPA, pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2016);

D. Impose upon Defendants for violating a provision of the Act a civil penalty not to exceed the statutory maximum, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016);

E. Award Plaintiff its costs in this matter, including reasonable attorney's fees and costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016); and

F. Grant such other relief as the Court may deem appropriate.

COUNT V
OPEN DUMPING RESULTING IN LITTER

1-41. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 33 of Count I, and paragraphs 34 through 41 of Count II, as paragraphs 1 through 41 of this Count V.

42. Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2016), provides:

No person shall:

* * *

(p) In violation of subdivision (a) of this Section, cause or allow the open dumping of any waste in a manner which results in any of the following occurrences at the dump site:

(l) litter

43. Section 3(a) of the Litter Control Act, 415 ILCS 105/3(a) (2016), contains the following definition:

(a) "Litter" means any discarded, used or unconsumed substance or waste. "Litter" may include, but is not limited to, any garbage, trash, refuse, ... debris, rubbish, ... glass, metal, plastic or paper containers or other packaging construction material, ... or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly.

44. Improperly discarded materials including but not limited to used or waste tires, tire beads, and metal rims at the Site have remained in a disordered and unsightly manner, and thereby constitute "litter" as defined by Section 3(a) of the Litter Control Act, 415 ILCS 105/3(a) (2016).

45. Defendants caused or allowed open dumping at the Site that resulted in litter.

46. By causing or allowing open dumping at the Site that resulted in litter, Defendants violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2016).

47. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Court enter an order against Defendants, RICHARD PURDY and MONIKA PURDY, granting the following relief:

A. Find that Defendants have violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2016);

B. Permanently enjoin Defendants from further violations of the Act pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2016);

C. Order Defendants to immediately undertake measures to remediate ongoing violations of the Act, including but not limited to ceasing and desisting from the deposition, accumulation, and open burning of waste at the Site, removing all waste from the Site to an appropriate facility permitted by the Illinois EPA, and recording all shipments of waste with

documentation of records provided to the Illinois EPA, pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2016);

D. Impose upon Defendants for violating a provision of the Act a civil penalty not to exceed the statutory maximum, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016);

E. Award Plaintiff its costs in this matter, including reasonable attorney's fees and costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016); and

F. Grant such other relief as the Court may deem appropriate.

COUNT VI
WASTE-DISPOSAL OPERATION VIOLATIONS

1-122. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 47 of Count I, paragraphs 30 through 72 of Count II, paragraphs 34 through 52 of Count III, paragraphs 34 through 41 of Count IV, and paragraphs 42 through 46 of Count V, as paragraphs 1 through 122 of this Count VI.

123. Defendants have never submitted to the Illinois EPA an application for a permit to develop a sanitary landfill.

124. The Site is not permitted by Illinois EPA to conduct a waste-storage or waste-disposal operation.

125. Sections 21(d)(1) and (2) and (e) of the Act, 415 ILCS 5/21(d)(1)-(2) and (e) (2016), provide:

No person shall:

* * *

(d) Conduct any waste-storage, waste-treatment, or waste-disposal operation:

(1) without a permit granted by the Agency or in violation of any conditions imposed by such permit,

including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; provided, however, that, except for municipal solid waste landfill units that receive waste on or after October 9, 1993, no permit shall be required for (i) any person conducting a waste-storage, waste-treatment, or waste-disposal operation for wastes generated by such person's own activities which are stored, treated, or disposed within the site where such wastes are generated, or (ii) a facility located in a county with a population over 700,000 as of January 1, 2000, operated and located in accordance with Section 22.38 of this Act, and used exclusively for the transfer, storage, or treatment of general construction or demolition debris, provided that the facility was receiving construction or demolition debris on the effective date of this amendatory Act of the 96th General Assembly;

- (2) in violation of any regulations or standards adopted by the Board under this Act; or

* * *

- (e) Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

126. Section 812.101(a) of the Board regulations, 35 Ill. Adm. Code 812.101(a), provides as follows:

All persons, except those specifically exempted by Section (d) of the Environmental Protection Act (Act)(Ill. Rev. Stat. 1991, ch.111 2, par.1021(d) [415 ILCS 5/21(d)] shall submit to the Agency an application for a permit to develop and operate a landfill

127. Section 810.101 of the Board's regulations, 35 Ill. Adm. Code 810.101, provides, in pertinent part, as follows:

This Part applies to all solid waste disposal facilities regulated pursuant to 35 Ill. Adm. Code 811 through 817. . . .

128. Section 810.103 of the Board's regulations, 35 Ill. Adm. Code 810.103, provides, in pertinent part, as follows:

"Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water or into any well such that solid waste or any constituent of the solid waste may enter the environment by being emitted into the air or discharged into any waters, including groundwater. [415 ILCS 5/3.185] If the solid waste is accumulated and not confined or contained to prevent its entry into the environment, or there is no certain plan for its disposal elsewhere, such accumulation will constitute disposal.

* * *

"Facility" means a site and all equipment and fixtures on a site used to treat, store or dispose of solid or special wastes. A facility consists of an entire solid or special waste treatment, storage, or disposal operation. . . .

* * *

"Inert waste" means any solid waste that will not decompose biologically, burn, serve as food for vectors, form a gas, cause an odor, or form a contaminated leachate, as determined in accordance with 35 Ill. Adm. Code 811.202(b). Such inert wastes will include only non-biodegradable and non-putrescible solid wastes. Inert wastes may include, but are not limited to, bricks, masonry, and concrete (cured for 60 days or more).

* * *

"Landfill" means a unit or part of a facility in or on which waste is placed and accumulated over time for disposal, and which is not a land application unit, a surface impoundment or an underground injection well. For the purposes of this Part and 35 Ill. Adm. Code 811 through 815, landfills include waste piles, as defined in this Section.

* * *

"Solid Waste" means a waste that is defined in this Section as an inert waste, as a putrescible waste, as a chemical waste or as a special waste, and which is not also defined as a hazardous waste

pursuant to 35 Ill. Adm. Code 721.

129. Discarded materials present at the Site including but not limited to used or waste tires, tire beads, and metal rims constitute “inert waste,” as that term is defined in Section 810.103 of the Board’s regulations, 35 Ill. Adm. Code 810.103.

130. The inert waste located at the Site is “solid waste,” as that term is defined in Section 810.103 of the Board’s regulations, 35 Ill. Adm. Code 810.103.

131. The accumulation of solid waste at the Site without certain plans for disposal elsewhere and without measures to confine or contain the solid waste’s entry into the environment constitutes “disposal,” as that term is defined in Section 810.103 of the Board’s regulations, 35 Ill. Adm. Code 810.103.

132. Solid waste is located on and has been disposed of on the Site, and the Site is therefore a “facility” within the meaning of Section 810.103 of the Board’s regulations, 35 Ill. Adm. Code 810.103.

133. Solid waste has been placed and accumulated over time for disposal on parts of the Site. Such parts of the Site constitute a “landfill,” as that term is defined in Section 810.103 of the Board’s regulations, 35 Ill. Adm. Code 810.103.

134. Defendants operated the Site as a landfill without first obtaining a permit to develop or operate a landfill.

135. By conducting a waste-disposal operation without a permit granted by the Illinois EPA, Defendants violated Section 812.101(a) of the Board regulations, 35 Ill. Adm. Code 812.101(a), and Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2016).

136. Defendants conducted a waste-storage or waste-disposal operation in violation of regulations adopted by the Board under the Act at a site that does not meet requirements of the Act and regulations adopted thereunder.

137. By conducting a waste-storage or waste-disposal operation in violation of regulations adopted by the Board under the Act, at a site that does not meet requirements of the Act and regulations adopted thereunder, Defendants violated Sections 21(d)(2) and (e) of the Act, 415 ILCS 5/21(d)(2) and (e) (2016).

138. Violations of the pertinent environmental statutes and regulations will continue unless and until this Court grants equitable relief in the form of preliminary and, after trial, permanent injunctive relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Court enter an order against Defendants, RICHARD PURDY and MONIKA PURDY, granting the following relief:

A. Find that Defendants have violated Sections 21(d)(1), 21(d)(2) and 21(e) of the Act, 415 ILCS 5/21(d)(1)–(2) and (e) (2016), and Section 812.101(a) of the Board’s Waste Disposal Regulations, 35 Ill. Adm. Code 812.101(a);

B. Permanently enjoin Defendants from further violations of the Act and associated regulations pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2016);

C. Order Defendants to immediately undertake measures to remediate ongoing violations of the Act, including but not limited to ceasing and desisting from the deposition, accumulation, and open burning of waste at the Site, removing all waste from the Site to an appropriate facility permitted by the Illinois EPA, and recording all shipments of waste with documentation of records provided to the Illinois EPA, pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2016);

COPY

D. Impose upon Defendants for violating provisions of the Act and associated regulations a civil penalty not to exceed the statutory maximum, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2016);

E. Award Plaintiff its costs in this matter, including reasonable attorney's fees and costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2016); and

F. Grant such other relief as the Court may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
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