



STATE OF MISSISSIPPI
HALEY BARBOUR
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
TRUDY D. FISHER, EXECUTIVE DIRECTOR

April 22, 2011

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Mr. Thomas Carter
MTR Acquisitions, Inc.
d/b/a Mac's Tire Recyclers
1941 Cement Plant Road
Nashville, TN 37208

Re: Agreed Order No. 5954 11

Dear Mr. Carter:

Enclosed you will find a copy of Agreed Order No.5954 11, which has been executed by the Executive Director of the Mississippi Department of Environmental Quality, Ms. Trudy Fisher, on behalf of the Mississippi Commission on Environmental Quality. This Agreed Order has been executed to resolve certain compliance issues at your waste tire processing and disposal facility in Saltillo, MS.

If you have any questions regarding your obligations under the enclosed order, please contact either Mr. Trent Jones at (601) 961-5726 or Mr. Reese Yontz at (601) 961-5035.

Sincerely,

A handwritten signature in blue ink that reads "Jerry W. Cain".

Jerry W. Cain, P.E., DEE
Director, Office of Pollution Control

Enclosure
cc: Trent Jones, MDEQ

Agency Interest No. 11443
ENF20090001

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. 5954 11

MTR ACQUISITIONS, INC.
D/B/A MAC'S TIRE RECYCLERS
1941 CEMENT PLANT ROAD
NASHVILLE, TN 37208

RESPONDENT

AGREED ORDER

COME NOW THE Mississippi Commission on Environmental Quality (Commission), acting through the staff and Executive Director of the Mississippi Department of Environmental Quality (MDEQ), Complainant, and MTR Acquisitions, Inc. d/b/a Mac's Tire Recyclers, Respondent, in the above captioned cause and agree as follows:

1.

The Respondent, in an approved transfer of operations, was issued Waste Tire Management Permit No. WTP-0001 for an existing waste tire processing facility and issued Certificate of Coverage No. R1-091 under the Solid Waste Management General Permit No. SWGP-R1 for a waste tire monofill located at 2085 Highway 145 North, Slatillo, in Lee County, Mississippi on July 27, 2004 and is subject to Miss. Code Ann. § 17-17-1, *et seq.* and the rules and regulations of the Mississippi Commission on Environmental Quality.

2.

On May 15, 2008, Complainant issued Administrative Order No. 5397 08 to Respondent to address the stockpiling of whole waste tires in excess of Respondent's Waste Tire Management Permit No. WTP-0001. Respondent failed to meet all conditions of Administrative Order No. 5397 08 by the specified deadlines. After meeting with the Respondent on August 6, 2008, Administrative

Order No. 5397 08 was amended on August 29, 2008. Administrative Order No. 5397 08, as amended, required Respondent to return and maintain the waste tire processing facility conditions consistent with WTP-0001. Additionally, Respondent was required to store all waste tires in trailers until they are unloaded for processing. Only a limited number of waste tires were allowed to be stored outside while awaiting pre-processing such as de-rimming or size reduction, with the condition that the total number of whole waste tires stored in trailers and on the ground must not exceed 10,000 tires. Administrative Order 5397 08 also reminded Respondent that outside storage piles were to be no greater than 50 feet wide, 100 feet long, and 15 feet high. Furthermore, Respondent was ordered to review the current facility operations and submit to Complainant any necessary changes in Respondent's approved plan of operations and waste tire storage limit. In a letter dated December 30, 2008, Respondent stated that no changes in the approved plan of operations or waste tire storage limit were necessary due to Respondent's facilities in other states reducing the burden of the facility in Saltillo, MS. Additionally, Respondent stated that adequate spare parts for equipment were being maintained at a Nashville, TN location and/or a sister company in New Castle, PA and that in the event of a breakdown, Respondent could send replacement parts to the Saltillo facility no sooner than the next day and no later than three weeks.

3.

Routine inspections conducted by MDEQ on September 23, 2009, November 16, 2009, and November 25, 2009, revealed that conditions at Respondent's waste tire processing facility and waste tire monofill were in noncompliance with its Waste Tire Management Permit No. WTP-0001, Certificate of Coverage No. R1-091 under the Solid Waste Management General Permit No. SWGP-R1, the Mississippi Waste Tire Management Regulations ("Waste Tire Regulations"), and/or the Mississippi Nonhazardous Solid Waste Management Regulations ("Solid Waste Regulations"). Specifically, these inspections noted the following alleged violations at Respondent's facilities in Saltillo, MS:

- A. Certain waste tire processing equipment and systems were not operating at the time of inspections on November 16, 2009 and November 25, 2009. Based on our review, it appeared that some of the equipment had recently experienced extended downtimes, partially due to unavailability of or delays in obtaining suitable replacement parts.

Condition D.3 of WTP-0001 requires Respondent to properly operate and maintain all equipment as systems which are used to achieve compliance with permit conditions. This may include maintaining or having reasonable access to needed replacement parts to reduce equipment downtime.

- B. Respondent failed to notify MDEQ of anticipated noncompliance with certain permit conditions as required by Condition E.11 of WTP-0001. The extended facility downtime and/or reduced processing capacity resulting from equipment failure and the apparent unavailability of replacement parts contributed to the waste tire processing facility exceeding the permitted whole waste tire storage limits.
- C. Waste tires were being stored in excess of the 10,000 whole waste tire storage limit specified in Condition E.5 of WTP-0001.
- D. Whole waste tires were accepted by Respondent after reaching and exceeding the approved waste tire storage limit instead of rejecting the loads as required by Section D.4 of the Waste Tire Regulations.
- E. Whole waste tires were stored on the ground instead of in enclosed trailers as specified by the Respondents approved plan of operation as required by Condition E.5 of WTP-0001.
- F. Whole waste tires were stored outside in such a manner that the pile dimensions were greater than those specified in Section C.3 of the Waste Tire Regulations and such that the piles were closer to adjacent properties than allowed by Section C.3 of the Waste Tire Regulations.
- G. Waste material disposed in the waste tire monofill did not appear to have been covered at least once every two weeks as required by Section VI.E.7 of the Solid Waste Regulations and Section E.4.a of the Waste Tire Regulations.
- H. The working face of the waste tire monofill appeared to be larger than necessary in violation of Section VI.E.14 of the Solid Waste Regulations.
- I. The processed waste tire material was stored in one excessively large pile with no apparent firebreaks, fire lanes, or other apparent method to prevent and/or retard the spread of fire through the processed waste tire material in violation of Condition E.5 of WTP-0001.

4.

In lieu of a formal enforcement hearing concerning the alleged violations listed above, Complainant and Respondent agree to settle this matter at the subject facilities, without any admission of liability by Respondent, as follows:

- A. Respondent shall immediately begin storing whole waste tires waiting to be processed **in trailers only** and shall cease storing whole waste tires outside in piles except for those mentioned in Paragraph 4.B below.
- B. Respondent may store no more than 1,000 whole waste tires on the ground outside near the Respondent's de-rimming machine(s) unless otherwise approved by MDEQ. The total number of waste tires stored in trailers and on the ground shall not exceed 10,000 waste tires.
- C. Respondent shall maintain a reasonable inventory of spare parts at the waste tire processing facility in Saltillo, MS as necessary to limit long-term equipment downtime. Respondent shall notify MDEQ as soon as equipment downtime due to breakdown, scheduled maintenance, or other circumstances is anticipated to cause or potentially cause noncompliance with any permit or regulatory conditions.
- D. Respondent shall review operations at the waste tire processing facility to determine if and what changes are needed in the current approved plan of operations. Within sixty (60) days of the execution of this Agreed Order, Respondent shall submit to MDEQ an updated plan of operation. This updated plan of operation should, at a minimum, include an inventory of all equipment on-site for processing waste tires, a new proposed whole waste tire storage limit, a proposed processed waste tire storage limit, and an improved method and location of storing the processed waste tire material. Additionally, Respondent shall submit for MDEQ review a sample of any existing or proposed equipment maintenance and repair log(s) for the waste tire processing equipment at the waste tire processing facility.
- E. Respondent shall update the financial assurance for the facility in accordance with Section F of the Mississippi Waste Tire Management Regulations to account for the update of the plan of operations required by Paragraph 4.D. Additionally, Respondent shall ensure that the issuer of such financial assurance instrument is a surety company or

financial institution licensed to do business in the State of Mississippi.

- F. Respondent shall maintain a single, manageable working face at the waste tire monofill. Specific requirements shall be outlined in the plan of operations for the Respondent's submitted recoverage application for the waste tire monofill.
- G. Respondent shall cover **all exposed surfaces** of the working face with at least six (6) inches of earthen cover by the end of the business day on each Thursday as specified in Respondent's submitted recoverage application for the waste tire monofill. If weather conditions prevent Respondent from applying earthen cover on a particular Thursday, Respondent should apply earthen cover as soon as conditions allow. However, under no circumstances shall Respondent exceed two (2) weeks between applications of earthen cover.
- H. Within sixty (60) days of the execution of this Agreed Order, Respondent shall submit for MDEQ review a sample of any existing or proposed earthen cover log for the waste tire monofill site.
- I. Without any admission of liability, Respondent agrees to pay and Complainant agrees to accept a monetary penalty of \$124,000.00 to be paid as follows:
 - 1. Respondent shall pay \$24,800.00 of the penalty in full. The penalty payment shall be submitted in three (3) installments. The first payment of \$8,267 shall be submitted before May 31, 2011. The second payment of \$8,267 shall be submitted before June 30, 2011. The third payment of \$8,266 shall be submitted before July 31, 2011.
 - 2. The remaining \$99,200.00 shall be held in abeyance for twelve (12) months from the execution of this Agreed Order. If any of the requirements memorialized in Paragraphs 4.A through 4.I.1 are not met and/or if the Respondent repeats any of the violations memorialized in Paragraphs 3.A through 3.I during the twelve month period, MDEQ may request in writing that the Respondent forfeit an amount up to the remaining \$99,200.00 penalty held in abeyance within forty-five (45) days of the request.

5.

The parties agree that by entering into this Agreed Order and agreeing to the terms and conditions set forth in Paragraph 4 above, Respondent does not admit any of the allegations listed in

Paragraph 3 of this Agreed Order and nothing contained herein shall be in any way construed as an admission of liability of the Respondent. Without admitting any liability, Respondent consents to entry of this Agreed Order which the parties agree shall serve as the full resolution of the alleged violations above. The parties further agree that the Commission continues to assert that the matters set forth in Paragraph 3 of this Agreed Order were violations of the environmental laws, regulations, and/or permits applicable to the Respondent. Nothing contained in this Agreed Order shall limit the rights of MDEQ or the Commission to take enforcement or other actions against Respondent for violations not addressed herein and for future violations of environmental laws, rules, and regulations identified by MDEQ.

6.

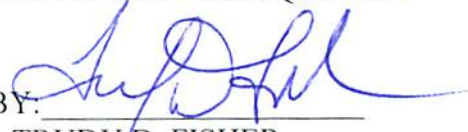
Nothing in this Agreed Order shall limit the rights of MDEQ or the Commission in the event Respondent fails to comply with this Agreed Order. The Agreed Order shall be strictly construed to apply to those matters expressly resolved herein.

7.

Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Miss. Code Ann. Section 49-17-31, and that it has made an informed waiver of that right.

ORDERED, this the 28 day of April, 2011.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: 
TRUDY D. FISHER
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 21st day of April, 2011.

MTR ACQUISITIONS, INC. D/B/A MAC'S TIRE RECYCLERS

BY: 


TITLE: President

STATE OF Tennessee
COUNTY OF Robertson

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Thomas Carter who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the President of Mac Tire Recyclers and is authorized by that Corporation to sign this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 21st day of April, 2011.


NOTARY PUBLIC

My Commission expires:  My Commission Expires: February 2, 2014

My Commission Expires:
February 2, 2014

