



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

May 27, 2011

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

Mr. Larry Lambiotte
PolyVulc Tire Recycling LLC
1645 Haining Drive
Vicksburg, MS 39180

**Re: PolyVulc Tire Recycling LLC
Agreed Order No. 5972 11**

Dear Mr. Lambiotte:

Enclosed you will find a copy of Agreed Order No. 5972 11, which has been executed by the Executive Director of the Mississippi Department of Environmental Quality, Trudy Fisher, on behalf of the Mississippi Commission on Environmental Quality.

The enclosed Order assesses a civil penalty. The penalty payment, when due, should be made by check payable to the Mississippi Department of Environmental Quality and returned in the enclosed, self-addressed envelope to the MDEQ Fees Division at P.O. Box 2339, Jackson, MS 39225.

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

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

Agency Interest No. 12581
ENF20110001

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. 5972 11

POLYVULC TIRE RECYCLING LLC
2845 METER ROAD
JACKSON, MISSISSIPPI 39204

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 PolyVulc Tire Recycling LLC, 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-0020 for an existing waste tire processing facility located at 2845 Meter Road in Jackson, Mississippi (Hinds County) on February 11, 2003 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 December 9, 2010, the Mississippi Department of Environmental Quality (MDEQ) conducted a routine compliance inspection of the PolyVulc facility in Jackson, Mississippi. The inspection revealed that the waste tire processing facility was not in compliance with a number of conditions of WTP-0020 and the Mississippi Waste Tire Management Regulations (Regulations). The MDEQ issued Respondent a Notice of Violation letter on January 28, 2011 which cited violations of the following permit conditions and the Regulations:

- A. WTP-0020 Section E.4 regarding the storage of whole waste tires (approximately 135,000 passenger tire equivalents) in excess the allowable whole tire storage limit of 8,000 whole waste tires.
- B. Section D.4 of the Regulations regarding the acceptable of waste tires after reaching the maximum waste tire storage limit.
- C. WTP-0020 Section E.4.a regarding the failure to maintain a setback of at least 50 feet between tire storage stockpiles and on-site structures.
- D. WTP-0020 Section E.4.b and Section C.3.c of the Regulations regarding the storage of whole waste tires in or near potentially flammable vegetation.
- E. WTP-0020 Section E.4.c regarding the storage of whole waste tire within 200 feet of the property line.
- F. Section C.3.a of the Regulations regarding the storage of whole waste tires in excess of the allowable storage pile dimensions.
- G. WTP-0020 Section E.10 regarding the failure to notify MDEQ of any anticipated noncompliance with the applicable laws and regulations and the failure to notify MDEQ and obtain approval for any significant modifications to the approved plan of operations.
- H. Sections D.1 of the Regulations regarding the operation of an unauthorized waste tire processing and collection site on new property recently acquired by PolyVulc.

3.

On February 17, 2011, MDEQ held an Administrative Conference with Respondent to discuss these violations and advised respondent that it appeared enforcement actions were warranted. MDEQ further advised Respondent that we intended to propose settlement of this matter through an Agreed Order, including monetary penalties.

4.

In lieu of a formal enforcement hearing concerning the violation(s) listed in Section 2 above, Complainant and Respondent agree to settle this matter as follows:

- A. Respondent shall immediately begin to reduce the whole waste tire storage pile currently located on the permitted property. Respondent shall maintain the whole waste tire storage pile on the permitted property at below 20,000 whole waste tires equivalents until a permanent waste tire storage limit is agreed upon with MDEQ as required in Section 4.D of this Order.
- B. Respondent shall immediately begin to reduce the number of whole and processed waste tires and off-the road (OTR) tires stockpiled on the unauthorized property. All

automobile and truck waste tires stored on the ground shall be removed from this property by May 31, 2011. Respondent shall maintain less than 200 whole and processed waste tire equivalents of OTR tires at this location to facilitate removal of the tires until a permanent storage location and limit is agreed upon with MDEQ as required in Section 4.D of this Order.

- C. Respondent shall establish adequate buffers between all waste tires storage piles, property boundaries, and buildings. Waste tires shall not be stored near potentially flammable vegetation or other potential combustion sources and appropriate fire lanes shall be maintained.
- D. Respondent shall submit a new waste tire processing facility application which addresses the proposed addition of the currently unauthorized property. The application shall include an updated, detailed plan of operations for the entire waste tire processing facility. At minimum, MDEQ believes the updated plan of operation should include an inventory of all equipment on-site for processing waste tires, updated maps and process flow diagrams, a new proposed whole waste tire storage limit, a new proposed processed waste tire storage limit, and improved methods and strategies for storing whole and processed waste tires as well as waste materials. Respondent shall submit the application and plan of operations to MDEQ by June 30, 2011.
- E. Respondent shall update and maintain 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.
- F. Respondent agrees to pay and Complainant agrees to accept a monetary penalty of \$120,000 to be paid as follows:
 - 1. Respondent shall pay \$18,000 of the penalty within sixty (60) days of the execution date of this Agreed Order.
 - 2. The remaining \$102,000 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.F.1 are not met and/or if the Respondent repeats any of the violations memorialized in Paragraphs 2 during the twelve month period, MDEQ may request in writing that the Respondent forfeit an amount up to the remaining

\$102,000 penalty held in abeyance within forty-five (45) days of the request.

5.

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.

6.


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.

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 25 day of May, 2011.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

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

AGREED, this the 16 day of MAY, 2011.

POLYVULC TIRE RECYCLING LLC

BY: Larry L Lambotte, Sr

TITLE: MANAGING MEMBER

STATE OF Mississippi

COUNTY OF Warren

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Larry L Lambotte Sr. who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the Managing Member of PolyVulc Tire Recycling LLC and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 16 day of MAY, 2011.

Julia C. Stevenson
NOTARY PUBLIC

My Commission expires: 2/25/12

