

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
STEPHENSON COUNTY, ILLINOIS  
CHANCERY DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,	)	
<i>ex rel.</i> KWAME RAOUL,	)	
Attorney General of the State Illinois,	)	
	)	
	)	No. 2023CH8
Plaintiff,	)	
	)	
v.	)	
	)	
OUTLAW TBO LLC, a limited liability	)	EFILED
company, and CROSSROADS METALS	)	STEPHENSON COUNTY, IL
INC., d/b/a MOWERY AUTO PARTS,	)	4/20/2023 9:16 AM
an Illinois corporation,	)	Shanelle Bardell
	)	CLERK OF THE CIRCUIT COURT
	)	
Defendants.	)	

**VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF AND CIVIL PENALTIES**

Plaintiff, 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”), complains of Defendants, OUTLAW TBO LLC, a limited liability company, and CROSSROADS METALS INC., d/b/a MOWERY AUTO PARTS, an Illinois corporation, (collectively referred to as “Defendants”) as follows:

**COUNT I  
SUBSTANTIAL DANGER TO THE  
ENVIRONMENT, PUBLIC HEALTH AND WELFARE**

1. This count 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 EPA, against Defendants, Outlaw TBO LLC, a limited liability company, and Crossroads Metals Inc., d/b/a Mowery Auto Parts, an Illinois corporation, pursuant to the terms

and provisions of Section 43(a) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/43(a) (2020), and is an action to restrain a substantial danger to public health and welfare and to the environment.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2020), and charged, *inter alia*, with the duty of enforcing the Act.

3. The Illinois Emergency Management Agency (“IEMA”) is an administrative agency of the State of Illinois created pursuant to the Illinois Emergency Management Agency Act, 20 ILCS 3305/, and charged with the duty of coordinating the overall emergency management program of the State and with private organizations, political subdivisions, and the federal government. IEMA also is responsible for implementation of Title III of the Superfund Amendments and Reauthorization Act of 1986.

4. At all times relevant to this Verified Complaint, Defendant Outlaw TBO LLC (“Defendant Outlaw”) has been and is an Illinois limited liability company registered and in good standing with the Illinois Secretary of State’s Office.

5. At all times relevant to this Verified Complaint, Defendant Crossroads Metals Inc. has been and is an Illinois corporation doing business as Mowery Auto Parts (“Defendant Mowery”). Defendant Mowery is registered and in good standing with the Illinois Secretary of State’s Office.

6. Defendant Outlaw is the owner of the real property where Defendant Mowery operates Mowery Auto Parts, an auto parts salvage yard, located at 686 North Van Buren Avenue, Freeport, Stephenson County, Illinois 61032 (“Facility”).

7. As of the date of filing of this Verified Complaint, the Facility is located in an area of Environmental Justice (“EJ”) concern as identified using Illinois EPA EJ Start.

8. The Facility encompasses approximately five acres, and the western side of the Facility is located approximately fifteen (15) feet from the Pecatonica River. Commercial businesses and industrial facilities are also located near the Facility.

9. The Facility’s operations include storing used and waste tires, selling used car parts, as well as scrap metal recovery.

10. At all times relevant to this Verified Complaint, the Facility contained and continues to contain products used for, among other operations, vehicle dismantling, used parts storage, and outdoor vehicle and equipment storage. The products include, but are not limited to, motor oil, anti-freeze, gasoline, diesel fuel, hydraulic fluids, transmission fluids and various greases (collectively “Automotive Fluids”).

11. On January 11, 2023, at approximately 4:30 p.m., a fire occurred at the Facility (“Fire”). The Fire burned bailers, tire machines, a metal shear, about 300 used and/or waste tires, three salvage vehicles, and a building.

12. According to the United States Environmental Protection Agency (“USEPA”), tire fire emissions include pollutants such as particulates, carbon monoxide (CO), sulfur oxides (SO<sub>x</sub>), oxides of nitrogen (NO<sub>x</sub>), volatile organic compounds (VOCs), polynuclear aromatic hydrocarbons (PAHs), dioxins, furans, hydrogen chloride, benzene, polychlorinated biphenyls (PCBs), and metals such as arsenic, cadmium, nickel, zinc, mercury, chromium and vanadium (collectively “Tire Fire Emissions”). Exposure to Tire Fire Emissions can result in adverse health

impacts, including respiratory issues, central nervous system depression, cancer, and irritation of the skin, eyes, and mucous membranes.<sup>1</sup>

13. On January 11, 2023, at approximately 5 p.m., eight (8) fire departments in Illinois from Stephenson and Ogle County responded to the Fire at the Facility. By the time the Fire Departments arrived, one of the buildings at the Facility was engulfed with heavy smoke that showed from a distance and flames were showing from all sides. It took approximately four and a half hours and 300,000 gallons of water to extinguish the Fire.

14. On January 12, 2023, Illinois EPA inspected the Facility in the aftermath of the Fire. There were several hotspots where flames had reignited, including a burning pile of tires and a burning vehicle. Also, there was firefighting runoff along the southwest corner of the property, as well as in an unnamed stream flowing into the Pecatonica River, leaving a visible sheen. There was also a dark, oily substance along the Pecatonica River bank, which upon information and belief, was the result of the Fire.

15. On January 12, 2023, there was a dark, oily substance in a ditch between Van Buren Avenue (“the Ditch”), which is located East of the Facility, and the Facility. Upon information and belief, the dark, oily substance was the result of the Fire.

16. On January 12, 2023, the Illinois EPA also collected samples from the Pecatonica River.

17. On January 12, 2023, a contractor arrived at the Facility to discuss the installation of a concrete retaining wall (“Retaining Wall”) to prevent further runoff from entering the river.

18. On January 12, 2023, the Office of the State Fire Marshall, Division of Arson Investigation, performed an investigation and determined that human error caused the Fire.

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<sup>1</sup> USEPA Report, Prepared by Joel I. Reisman, *Air Emissions from Scrap Tire Combustion*, (Oct. 1997), at viii, [https://www3.epa.gov/ttnecat1/dir1/tire\\_eng.pdf](https://www3.epa.gov/ttnecat1/dir1/tire_eng.pdf).

19. On January 12, 2023, Defendant Mowery reported a release to IEMA and IEMA assigned the release Incident Number H-2023-0031.

20. On January 13, 2023, the Illinois EPA contacted Defendant Mowery to assess the progress made at remediating the conditions at the Facility. While the Retaining Wall had not yet been built, Defendant Mowery informed Illinois EPA that BK Concrete Company had been hired to construct the Retaining Wall.

21. On or about January 17, 2023, BK Concrete Company constructed the Retaining Wall.

22. On January 17th and January 19th, 2023, Illinois EPA again inspected the Facility.

23. The Fire resulted in the release of fire suppression water, Automotive Fluids, and residue from the combustion of tires, junk vehicles, equipment, and the remains of a building consumed by the Fire, which discharged from the Facility into the Pecatonica River (“the Release”). IEMA estimated the extent of the Release to be five (5) acres.

24. The Fire resulted in the emission of smoke, particulate matter, Tire Fire Emissions, and potentially other unknown contaminants into the atmosphere.

25. As of the date of the filing of this Verified Complaint, the land at the Facility and the water in the Pecatonica River are contaminated with runoff from fire suppression water, Automotive Fluids, and residue from the combustion of tires, junk vehicles, equipment, and the remains of a building consumed by the Fire.

26. Section 43(a) of the Act, 415 ILCS 5/43(a) (2020), provides as follows:

In circumstances of substantial danger to the environment or to the public health of persons or to the welfare of persons where such danger is to the livelihood of such persons, the State’s Attorney or Attorney General, upon request of the Agency or on his own motion, may institute a civil action for an immediate injunction to halt any discharge or other activity causing or contributing to the danger or to require such other action as may be necessary. The court may issue an ex parte order and

shall schedule a hearing on the matter not later than 3 working days from the date of injunction.

27. While the Fire burned, smoke, particulate matter, Tire Fire Emissions, and potentially other unknown contaminants were released into the air, and the fire suppression water, Automotive Fluids, and residue from the combustion of tires, junk vehicles, equipment, and the remains of a building consumed by the Fire continue to pose a public health hazard and threaten to impact the Pecatonica River and groundwater.

28. The land at the Facility being contaminated with firefighting runoff, Automotive Fluids, and residue from the combustion of tires, junk vehicles, equipment, and the remains of a building consumed by the Fire pose a substantial threat of discharge of contaminants to the Pecatonica River and pose a public health hazard and threatens to impact the Pecatonica River and area groundwater.

29. By releasing smoke, particulate matter, Tire Fire Emissions, and potentially other unknown contaminants into the environment, by causing fire suppression water, Automotive Fluids, and residue from the combustion of tires, junk vehicles, equipment, and the remains of a building consumed by the Fire to be discharged into the Pecatonica River, and by depositing fire suppression water, Automotive Fluids, and residue from the combustion of tires, junk vehicles, equipment, and the remains of a building consumed by the Fire onto the ground, Defendants created and are continuing to allow circumstances of substantial danger to the environment and to public health and welfare.

30. The substantial danger alleged herein will continue or reoccur unless and until this Court grants equitable relief in the form of immediate, preliminary and, after trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant an immediate and preliminary injunction in favor of Plaintiff, and against Defendants, OUTLAW TBO LLC, a limited liability company, and CROSSROADS METALS INC., d/b/a MOWERY AUTO PARTS, an Illinois corporation, on Count I:

1. Finding that Defendants created and are maintaining a substantial danger to the environment and public health and welfare;

2. Enjoining Defendants from creating any further substantial endangerment pursuant to Section 43(a) of the Act, 415 ILCS 5/43(a) (2020);

3. Ordering Defendants to immediately take all necessary actions to contain and prevent the discharge or release of fire suppression water, Automotive Fluids, and residue from the combustion of tires, junk vehicles, equipment and the remains of a building consumed by the Fire, and any other contaminants as a result of the Fire and to undertake all necessary corrective action that will result in a final and permanent abatement;

4. Ordering Defendants, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

5. Granting such other relief as this Court deems appropriate and just.

**COUNT II**  
**AIR POLLUTION**

1. This Count 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 EPA, pursuant to Section 42(d) and (e) of the Act, 415 ILCS 5/42 (d) and (e) (2020).

2-18. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 14, 18 through 19, 22, and 24 of Count I as paragraphs 2 through 18 of this Count II.

19. Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), provides as follows:

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.

20. Section 201.141 of the Illinois Pollution Control Board (“Board”) Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides as follows:

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

21. Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), provides the following definition:

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

22. The smoke, particulate matter, Tire Fire Emissions and potentially other unknown materials discharged and emitted into the air from the Facility as a result of the Fire are each a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

23. Section 3.315 of the Act, 415 ILCS 5/3.315 (2020), 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.



24. Defendant Outlaw, a limited liability company, and Defendant Mowery, an Illinois corporation, are each a “person” as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2020).

25. Section 3.115 of the Act, 415 ILCS 5/3.115 (2020), 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.

26. The release of smoke, particulate matter, Tire Fire Emissions, and the potential release of other unknown contaminants into the air at the Facility on January 11, 2023, created a risk of injury to human, plant, and/or animal life, to health and property, and threatened to unreasonably interfere with the enjoyment of life or property, constitutes “air pollution” as that term is defined in Section 3.115 of the Act, 415 ILCS 5/3.115 (2020).

27. By causing or threatening the release of airborne contaminants in the form of smoke, particulate matter, Tire Fire Emissions, and potentially other unknown contaminants from the Facility on January 11, 2023, Defendant Outlaw, as the owner of the Facility, and Defendant Mowery, as the operator of the Facility caused, threatened, or allowed air pollution in Illinois, and thereby violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

28. 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 a trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant an immediate and preliminary injunction in favor of Plaintiff, and against

Defendants, OUTLAW TBO LLC, a limited liability company, and CROSSROADS METALS INC., d/b/a MOWERY AUTO PARTS, an Illinois corporation, on Count II:

1. Finding that Defendants have violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

2. Enjoining Defendants from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

3. Ordering Defendants to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2020), and Section 201.141 of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141;

4. Assessing against Defendants, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act and pertinent regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Defendants, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

**COUNT III**  
**WATER POLLUTION**

1-26. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 11, 13 through 23, and 25 of Count I, and paragraphs 1, 21, and 23 through 24 of Count II, as paragraphs 1 through 26 of this Count III.

27. Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), provides as follows:

No person shall:

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

28. The fire suppression water, Automotive Fluids, and residue from the combustion of tires, junk vehicles, equipment, and the remains of a building consumed by the Fire are each a “contaminant” as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020).

29. Section 3.550 of the Act, 415 ILCS 5/3.555 (2020), provides the following definition:

“Waters” means all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon the State.

30. The Pecatonica River, the Ditch, and groundwater are “waters” of the State of Illinois as that term is defined by Section 3.550 of the Act, 415 ILCS 5/3.555 (2020).

31. Section 3.545 of the Act, 415 ILCS 5/3.545 (2020), provides the following definition:

“Water pollution” is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.

32. The release of fire suppression water, Automotive Fluids, and residue from the combustion of tires, junk vehicles, equipment, and the remains of a building consumed by the Fire from the Facility altered the physical and chemical properties of the Pecatonica River and the Ditch, and likely rendered such waters harmful or detrimental or injurious to (a) public health, safety or welfare; (b) domestic, commercial, industrial, agricultural, recreational, or other

legitimate uses; or (c) wild animals, birds, fish, or other aquatic life, and therefore constitutes “water pollution” as that term is defined in Section 3.545 of the Act, 415 ILCS 5/3.545 (2020).

33. By causing or allowing the discharge of fire suppression water, Automotive Fluids, and residue from the combustion of tires, junk vehicles, equipment, and the remains of a building consumed by the Fire into waters of the State of Illinois, Defendant Outlaw, as the owner of the Facility, and Defendant Mowery, as the operator of the Facility caused, threatened, and allowed the discharge of contaminants into the environment so as to cause or tend to cause water pollution in Illinois, and thereby violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

34. 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 a trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter a preliminary and, after a trial, permanent injunction and an order in favor of Plaintiff and against Defendants, OUTLAW TBO LLC, a limited liability company, and CROSSROADS METALS INC., d/b/a MOWERY AUTO PARTS, an Illinois corporation, on Count III:

1. Finding that Defendants have violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);
2. Enjoining Defendants from any further violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);
3. Ordering Defendants to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020);

4. Assessing against Defendants, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Defendants, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

**COUNT IV**  
**CREATING A WATER POLLUTION HAZARD**

1-31. Plaintiff realleges and incorporates by reference herein paragraphs 2 through 11, 13 through 23, and 25 of Count I, paragraphs 1, 21, and 23 through 24 of Count II, and paragraphs 28 through 32 of Count III as paragraphs 1 through 31 of this Count IV.

32. Section 12(d) of the Act, 415 ILCS 5/12(d) (2020), provides in pertinent part, as follows:

No person shall:

\* \* \*

(d) Deposit any contaminants upon the land in such place and manner so as to create a water pollution hazard.

\* \* \*

33. By depositing Automotive Fluids, residue from the combustion of tires, junk vehicles, equipment, and the remains of a building consumed by the Fire, each a “contaminant” defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2020), onto the land in a place and manner that the contaminants could be carried by storm water or fire suppressant water into the Pecatonica

River and the Ditch, Defendant Outlaw, as the owner of the Facility, and Defendant Mowery, as the operator of the Facility, created a water pollution hazard and thereby violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020).

34. 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 a trial, permanent injunctive relief.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, prays that this Court enter a preliminary and, after a trial, permanent injunction and an order in favor of Plaintiff and against Defendants, OUTLAW TBO LLC, a limited liability company, and CROSSROADS METALS INC., d/b/a MOWERY AUTO PARTS, an Illinois corporation, on Count IV:

1. Finding that Defendants have violated Section 12(d) of the Act, 415 ILCS 5/12(d) (2020);
2. Enjoining Defendants from any further violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2020);
3. Ordering Defendants to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 12(d) of the Act, 415 ILCS 5/12(d) (2020);
4. Assessing against Defendants, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Defendants, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

**COUNT V**  
**CAUSING OFFENSIVE CONDITIONS**

1. This count 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, against Defendants, pursuant to Section 42(d) and (e) of the Act, 415 ILCS 5/42 (d) and (e) (2020).

2-25. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 11, 13 through 23, and 25 of Count I, and paragraphs 29 through 30 of Count III, as paragraphs 2 through 25 of this Count V.

26. Section 302.203 of the Illinois Pollution Control Board (“Board”) Water Pollution Regulations, 35 Ill. Adm. Code 302.203, provides as follows:

Waters of the State shall be free from sludge or bottom deposits, floating debris, visible oil, odor, plant or algal growth, color or turbidity of other than natural origin. The allowed mixing provisions of Section 302.102 shall not be used to comply with the provisions of this Section.

27. By releasing fire suppression water, Automotive Fluids, and residue from the combustion of tires, junk vehicles, equipment, and the remains of a building consumed by the Fire such that it entered the Pecatonica River, as well as the Ditch, Defendant Outlaw, as owner of the Facility, and Defendant Mowery, as operator of the Facility, introduced floating debris, visible oil, odor, and liquid with a color and turbidity of other than natural origin into the Pecatonica River and the Ditch in violation of Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203.

28. By violating Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203, Defendants thereby also violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020).

29. 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.

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court enter an Order granting a preliminary injunction and, after trial, a permanent injunction in favor of Plaintiff, and against Defendants, OUTLAW TBO LLC, a limited liability company, and CROSSROADS METALS INC., d/b/a MOWERY AUTO PARTS, an Illinois corporation, on Count V, as follows:

1. Finding that Defendants violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), and Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203;

2. Enjoining Defendants from any further violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), and Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203;

3. Ordering Defendants to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), and Section 302.203 of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203;

4. Assessing against Defendants, pursuant to Section 42(a) of the Act, 415 ILCS 5/12(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2020), with an additional penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;



5. Ordering Defendants, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by Plaintiff in its pursuit of this action; and,

6. Granting such other relief as this Court deems appropriate and just.

**COUNT VI**  
**UNPERMITTED OPEN DUMPING OF WASTE AND WASTE DISPOSAL**

1-19. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 11, 13 through 14, 18 through 19, 23, and 25 of Count I, and paragraphs 1 and 23 through 24 of Count II, as paragraphs 1 through 19 of this Count VI.

20. The Facility has never been permitted by Illinois EPA for the disposal of waste.

21. Section 21 of the Act, 415 ILCS 5/21 (2020), provides, in pertinent part, as follows:

No person shall:

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

\* \* \*

(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.

22. Section 3.305 of the Act, 415 ILCS 5/3.305 (2020), 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.

23. Section 3.385 of the Act, 415 ILCS 5/3.385 (2020), provides the following

definition:

“Refuse” means waste.

24. Section 3.535 of the Act, 415 ILCS 5/3.535 (2020), 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...

25. Section 3.540 of the Act, 415 ILCS 5/3.540 (2020), provides the following

definition:

“Waste disposal site” is a site on which solid waste is disposed.

26. Section 3.185 of the Act, 415 ILCS 5/3.185 (2020), provides the following

definition:

“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.

27. Section 3.445 of the Act, 415 ILCS 5/3.445 (2020), provides, pertinent part, as

follows:

“Sanitary landfill” means a facility permitted by the Agency for the disposal of waste. . .

28. The ash and residue from burning of the Automotive Fluids, bailers, tire machines, a metal shear, approximately 300 waste and/or used tires, three salvaged vehicles, and the remains of a building consumed by the Fire which Defendants discharged, deposited, dumped, spilled, leaked, and/or placed onto soils at the Facility and surrounding areas, were discarded by Defendants, and therefore constitutes “waste” as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2020), and “refuse” as that term is defined in Section 3.385 of the Act, 415 ILCS 5/3.385 (2020).

29. Defendants' discharging, depositing, dumping, spilling, leaking, and/or placing of the ash and residue from burning of the Automotive Fluids, bailers, tire machines, a metal shear, approximately 300 waste and/or used tires, three salvaged vehicles, and the remains of a building consumed by the Fire onto the ground at the Facility, such that it migrated or threatened to migrate into the subsurface soils, surface water, and groundwater, and such that smoke, particulate matter, Tire Fire Emissions, and potentially other unknown contaminants were emitted into the air, constitutes "disposal" as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2020).

30. The areas of the Facility where Defendants caused or allowed the disposal of ash and residue from burning of the Automotive Fluids, bailers, tire machines, a metal shear, approximately 300 waste and/or used tires, three salvaged vehicles, and the remains of a building consumed by the Fire constitute a "waste disposal site" as that term is defined in Section 3.540 of the Act, 415 ILCS 5/3.540 (2020).

31. Because the Facility has never been permitted by Illinois EPA for the disposal of waste, it does not meet the requirements of a "sanitary landfill," as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2020).

32. Defendants' discharging, depositing, dumping, spilling, leaking, and/or placing of waste on the ground at the Facility constitutes "open dumping," as that term is defined in Section 3.305 of the Act, 415 ILCS 5/3.305 (2020).

33. By disposing the ash and residue from burning of the Automotive Fluids, bailers, tire machines, a metal shear, approximately 300 waste and/or used tires, three salvaged vehicles, and the remains of a building consumed by the Fire on the ground at the Facility, Defendant Outlaw, as the owner of the Facility, and Defendant Mowery, as the operator of the Facility, caused or allowed the open dumping of waste, and thereby violated Section 21(a) of the Act, 415 ILCS

5/21(a) (2020).

34. Because Defendant Outlaw, as the owner of the Facility, and Defendant Mowery, as the operator of the Facility, disposed of or abandoned the ash and residue from burning of the Automotive Fluids, bailers, tire machines, a metal shear, approximately 300 waste and/or used tires, three salvaged vehicles, and the remains of a building consumed by the Fire at the Facility, which is not permitted for waste disposal by the Illinois EPA, and therefore did not meet the requirements of the Act. Defendants thereby also violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2020).

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

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant a preliminary injunction and, after trial, a permanent injunction in favor of the Plaintiff and against Defendants, OUTLAW TBO LLC, a limited liability company, and CROSSROADS METALS INC., d/b/a MOWERY AUTO PARTS, an Illinois corporation, on Count VI, as follows:

1. Finding that Defendants violated Section 21(a) and (e) of the Act, 415 ILCS 5/21(a) and (e) (2020);
2. Enjoining Defendants from further violations of Section 21(a) and (e) of the Act, 415 ILCS 5/21(a) and (e) (2020);
3. Ordering Defendants to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 21(a) and (e) of the Act, 415 ILCS 5/21(a) and (e) (2020);

4. Assessing against Defendants, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Defendants, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

**COUNT VII**  
**OPEN BURNING OF USED OR WASTE TIRES**

1-20. Plaintiff re-alleges and incorporates by reference herein paragraphs 2 through 14, 18 through 19, 22, and 24 of Count I, and paragraphs 1 and 23 through 24 of Count II, as paragraphs 1 through 20 of this Count VII.

21. Section 55(a)(2) of the Act, 415 ILCS 5/55(a)(2) (2020), provides the following:

(a) No person shall:

\* \* \*

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

22. Section 3.300 of the Act, 415 ILCS 5/3.300 (2020), provides the follows:

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

23. On January 11, 2023, approximately 300 tires were combusted in the Fire, and is therefore “open burning” as that term is defined in Section 3.300 of the Act, 415 ILCS 5/3.300 (2020).

24. Section 54.13 of the Act, 415 ILCS 5/54.13 (2020), provides the following definition:

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

25. Section 54.16 of the Act, 415 ILCS 5/54.16 (2020), provides as follows:

“Waste tire” means a used tire that has been disposed of.

26. A portion of the approximately 300 tires at the Facility, of a number better known to Defendants, were worn, damaged, or defective, and were not mounted on a vehicle, and thereby constitute “used tire[s]” as defined by Section 54.13 of the Act, 415 ILCS 5/54.13 (2020).

27. A portion of the approximately 300 tires at the Facility, of a number better known to Defendants, have been disposed of and are therefore “waste tire[s]” as defined by Section 54.16 of the Act, 415 ILCS 5/54.16 (2020).

28. On January 11, 2023, approximately 300 used and/or waste tires burned in the Fire at the Facility.

29. On January 11, 2023, Defendant Outlaw, as owner of the Facility, and Defendant Mowery, as operator of the Facility, caused or allowed the open burning of used and/or waste tires, thereby violating Section 55(a)(2) of the Act, 415 ILCS 5/55(a)(2) (2020).

WHEREFORE, Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that this Court grant a preliminary injunction and, after trial, a permanent injunction in favor of the Plaintiff and against Defendants, OUTLAW TBO LLC, a limited liability company, and CROSSROADS METALS INC., d/b/a MOWERY AUTO PARTS, an Illinois corporation, on Count VII, as follows:

1. Finding that Defendants violated Section 55(a)(2) of the Act, 415 ILCS 5/55(a)(2) (2020);

2. Enjoining Defendants from further violations of Section 55(a)(2) of the Act, 415 ILCS 5/55(a)(2) (2020);

3. Ordering Defendants to undertake all necessary corrective action that will result in a final and permanent abatement of the violations of Section 55(a)(2) of the Act, 415 ILCS 5/55(a)(2) (2020);

4. Assessing against Defendants, pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2020), a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each and every violation of the Act, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Defendants, pursuant to 415 ILCS 5/42(f) (2020), to pay all costs, including oversight, sampling and clean-up costs, and attorney, expert witness and consultant fees expended by the Plaintiff in its pursuit of this action; and

6. Granting such other relief as this Court deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,  
*ex rel.* KWAME RAOUL, Attorney  
General of the State of Illinois  
MATTHEW J. DUNN, Chief  
Environmental Enforcement/  
Asbestos Litigation Division

By: /s/ Stephen J. Sylvester  
STEPHEN J. SYLVESTER, Chief  
Environmental Bureau  
Assistant Attorney General

*Of Counsel:*

AUDREY AVILA (ARDC No. 6295808)

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Assistant Attorneys General

Environmental Bureau

Illinois Attorney General's Office

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[Maria.Cacaccio@ilag.gov](mailto:Maria.Cacaccio@ilag.gov)





direct and personal knowledge as to the conditions arising from the fire that began on January 11, 2023 at Mowery Auto Parts located at 686 North Van Buren Avenue, Freeport, Stephenson County, Illinois.

5. I have read the foregoing Verified Complaint for Injunctive Relief and Civil Penalties (the "Complaint"), and I am aware of the contents thereof.

6. The factual matters set forth in Paragraphs 7 through 25 of Count I and Paragraph 20 of Count VI of the Complaint are true in substance and in fact, to the best of my knowledge, information and belief.

7. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.



Shaun Newell  
Illinois Environmental Protection Agency

Dated: 4-10-23

**IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT  
STEPHENSON COUNTY, ILLINOIS  
CHANCERY DIVISION**

PEOPLE OF THE STATE OF ILLINOIS, )  
*ex rel.* KWAME RAOUL, )  
Attorney General of the State Illinois, )

Plaintiff, )

v. )

OUTLAW TBO LLC, a limited liability )  
company, and CROSSROADS METALS )  
INC., d/b/a MOWERY AUTO PARTS, )  
an Illinois corporation, )

Defendants. )

No. 2023CH8

FILED  
STEPHENSON COUNTY, IL  
4/24/2023  
Shanelle Bardell  
CLERK OF THE CIRCUIT COURT

**AGREED IMMEDIATE AND PRELIMINARY INJUNCTION ORDER**

This cause coming before this Court on Plaintiff’s, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, Motion for Immediate and Preliminary Injunction, due notice having been given, the Court having jurisdiction over the parties and the subject matter herein, and the Court otherwise being duly advised in the premises;

NOW THEREFORE, the Plaintiff having alleged pursuant to Section 43(a) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/43(a) (2020), that a substantial danger to the environment or to the health and welfare of persons exists pursuant to the Act, 415 ILCS 5/1 *et seq.* (2020); and having also alleged that the Defendants, OUTLAW TBO LLC, a limited liability company (“Defendant Outlaw”), and CROSSROADS METALS INC., d/b/a MOWERY AUTO PARTS, an Illinois corporation (“Defendant Mowery”) (collectively referred to as “Defendants”), violated the Act and Illinois Pollution Control Board (“Board”) regulations and that a preliminary injunction should issue pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2020), to restrain

the violations; and the parties having agreed to the entry of this Agreed Immediate and Preliminary Injunction Order (“Agreed Order”), the Court enters the following immediate and preliminary injunction pursuant to Section 43(a) of the Act, 415 ILCS 5/43(a) (2020), and Section 42(e) of the Act, 415 ILCS 5/42(e) (2020), which shall remain in effect until further order of this Court.

## **I. BACKGROUND**

1. The Plaintiff incorporates by reference herein the allegations in its Verified Complaint for Injunctive Relief and Civil Penalties filed on April 20, 2023 (“Verified Complaint”).

2. The Plaintiff alleges in its Verified Complaint that as the result of the fire that occurred on January 11, 2023 (“Fire”) at Defendant Outlaw’s real property where Defendant Mowery operates Mowery Auto Parts, located at 686 North Van Buren Avenue, Freeport, Stephenson County, Illinois, 61032 (“Facility”) the Defendants created a substantial danger to the environment and public health and violated the Act and Board regulations and caused or allowed air pollution, water pollution, created a water pollution hazard, created offensive conditions, unpermitted open dumping of waste and waste disposal, and open burning of used and/or waste tires. As set forth in Section XIV below, by entering into this Agreed Order, the Defendants do not affirmatively admit to any of the allegations in the Verified Complaint.

3. At all times relevant to the Verified Complaint, Defendant Outlaw has been and is an Illinois limited liability company registered and in good standing with the Illinois Secretary of State’s Office.

4. At all times relevant to the Verified Complaint, Defendant Mowery was and is an Illinois corporation doing business as Mowery Auto Parts. Defendant Mowery is registered and in good standing with the Illinois Secretary of State’s Office.

5. As of the date of filing of the Verified Complaint, the Facility is located in an area of Environmental Justice (“EJ”) concern as identified using Illinois EPA EJ Start.

6. The Facility’s operations include storing used and waste tires, selling used car parts, as well as scrap metal recovery.

7. The Fire burned bailers, tire machines, a metal shear, about 300 used and/or waste tires, three salvage cars and a building.

8. The Plaintiff alleges that the Fire resulted in the release of particulate matter, smoke, Tire Fire Emissions from the burning of tires, and potentially other unknown contaminants into the atmosphere and the release of fire suppression water, automotive fluids, and residue from the combustion of tires, junk vehicles, equipment, and the remains of a building consumed by the Fire, which discharged from the Facility into the Pecatonica River (“the Release”). The Plaintiff alleges that the Release resulted in environmental impact to the land at the Facility and the adjacent Pecatonica River.

9. The Plaintiff alleges, on January 11, 2023, at approximately 5 p.m., eight (8) fire departments in Illinois from Stephenson and Ogle County responded to the Fire at the Facility. By the time the Fire Departments arrived, one of the buildings at the Facility was engulfed with heavy smoke that showed from a distance and flames were showing from all sides. The Plaintiff alleges, it took approximately four and a half hours and 300,000 gallons of water to extinguish the Fire.

10. On January 12, 2023, Illinois EPA inspected the Facility in the aftermath of the Fire. Plaintiff alleges that at the time of the inspection, there were several hotspots where flames had reignited, including a burning pile of tires and a burning vehicle. Plaintiff also alleges there was firefighting runoff along the southwest corner of the property, as well as in an unnamed stream flowing into the Pecatonica River, leaving a visible sheen. Plaintiff alleges there was also a dark,

oily substance along the Pecatonica River bank, which upon information and belief, was the result of the Fire.

11. Plaintiff alleges that on January 12, 2023, there was a dark, oily substance in a ditch between Van Buren Avenue (“the Ditch”), which is located East of the Facility, and the Facility. Upon information and belief, the dark, oily substance was the result of the Fire.

12. Defendants assert that it has taken the following actions, among others, in response to the Fire:

a. On or about January 17, 2023, the Defendants constructed a 3-foot high, 8-inch wide concrete retaining wall that is 110-feet long north to south and 90-feet long east to west at the southwest corner of the property to retain precipitation runoff.

b. The Defendants installed retaining booms on the back side and at the ends of the retaining wall.

c. The Defendants exhumed visually impacted soils from a drainage swale along Van Buren Avenue in front of the Facility and immediately placed them in a roll off box site for disposal.

d. The Defendants installed absorbent booms in the swales leading to the Pecatonica River to contain and prevent additional contaminants from reaching the Pecatonica River.

## **II. GENERAL PROVISIONS**

1. This Agreed Order is not a final resolution of the merits of the Plaintiff’s Verified Complaint, but rather addresses the Plaintiff’s most immediate concerns regarding the Fire alleged in the Verified Complaint.

2. This Agreed Order does not, nor is it intended to, determine the liability of the Defendants for the allegations in the Verified Complaint, except as to their compliance with the requirements of this Agreed Order.

3. Where applicable, terms used in this Agreed Order shall have the meaning as defined in the Plaintiff's Verified Complaint in this matter.

4. The Defendants shall not claim that any report or any exhibits or attachments thereto, or any portion thereof, submitted to the Plaintiff pursuant to this Agreed Order are subject to attorney-client privilege or constitute attorney work product.

5. This Agreed Order shall apply to and bind the Plaintiff and the Defendants hereto.

### **III. IMMEDIATE INJUNCTIVE RELIEF**

1. Effective immediately upon the entry of this Agreed Order, the Defendants shall continue to take all necessary actions to prevent the discharge or release of contaminants as a result of the Fire, including but not limited to automotive fluids, debris from the combustion of tires, junk vehicles, equipment, and the remains of a building consumed by the Fire, from the Facility into the air, land, surface water and/or groundwater surrounding the Facility.

2. In the event of any discharge or release of contamination from the Facility, the Defendants shall immediately notify the Plaintiff, as set forth in Section VI, below, and shall take all necessary actions to contain or remove the contaminants.

### **IV. PRELIMINARY INJUNCTIVE RELIEF**

#### **A. Special and Hazardous Waste Determination**

1. Within thirty (30) days after the entry of this Agreed Order, the Defendants shall:
  - a. perform a special waste determination, and a hazardous waste determination with regards to the water and residual sediment within the

- containment area behind the retention wall at the Facility;
- b. remove the water and residual sediment within the containment area behind the retention wall at the Facility and properly dispose of the water and residual sediment in accordance with the results of the special waste determination and the hazardous waste determination at an authorized facility;
  - c. clean the concrete surface of the retention wall and properly dispose of the water used for cleaning;
  - d. remove the soils within the two swale areas leading to the Pecatonica River that were impacted by the runoff from the Fire, and perform a special waste determination and a hazardous waste determination on the soils prior to disposal; and
  - e. ensure that the water, residual sediment, and soil from the Facility is not disposed of until the constituents are properly characterized, and the Plaintiff has given written approval for disposal.

**B. Technical Documents and Information**

1. Within twenty-one (21) days after the date of entry of this Agreed Order, the Defendants shall submit to the Plaintiff, for review by the Plaintiff, diagrams of the Facility showing the various operations and their locations and, to the best of the Defendants' knowledge, an inventory of chemicals, fluids, used car parts, scrap and/or used car batteries, and other materials that were kept inside and outside the building on January 11, 2023.

2. Within forty-five (45) days after the date of entry of this Agreed Order, the Defendants shall submit to the Plaintiff an updated Storm Water Pollution Prevention Plan



(“SWPPP”) for the Facility and an Annual Report for the year 2022 pursuant to its National Pollutant Discharge Elimination System (“NPDES”) General Permit. The Defendants shall comply with the terms and conditions of its NPDES General Permit.

3. Within thirty (30) days after the date of entry of this Agreed Order, the Defendants shall submit to the Plaintiff a Used and or Waste Tire Activity Registration form for the Facility for the year 2023.

### **C. Inspection and Maintenance Records**

Within ninety (90) days after the date of entry of this Agreed Order, the Defendants shall provide the Plaintiff records of their operations, including fluids, materials and tires that were at the Facility for the period of the past six months.

### **D. Summary Report**

1. Within one hundred and twenty (120) days after the date of entry of this Agreed Order, the Defendants shall provide to the Plaintiff a written report summarizing the Release and the work performed by the Defendants at the Facility in response to the Release (“Summary Report”). The Summary Report shall include: date of Release, affected equipment, identification of contaminants, areas impacted, a detailed calculation of the amount of contaminants discharged during the Release, if any, including all assumptions made by the Defendants in performing such calculations and supporting documentation; documentation of the amount/quantity of contaminants collected/removed from the Facility, and the location to which they were taken; documentation of proper disposal of contaminated water and soil; and all analytical data from soil, groundwater, surface water and/or air sampling performed by the Defendants.

2. Within ninety (90) days after the date of entry of this Agreed Order, the Defendants shall submit to the Plaintiff the results and locations of any on-site or off-site sampling of air, land,

surface water and/or groundwater conducted by the Defendants during or following the Release not already provided to the Plaintiff.

3. The Defendants shall provide clarifying information if requested by the Plaintiff, according to a schedule established by the Plaintiff.

#### **E. Site Investigation and Remediation**

1. Within forty-five (45) days after the date of entry of this Agreed Order, the Defendants shall submit to the Plaintiff, for its review and approval, a plan for the investigation of on- and off-site soil contamination, including the bank of the Pecatonica River, contaminated runoff and Fire debris into the Pecatonica River, and groundwater impacts that may have been caused by the Release (“Site Investigation Work Plan”). The Site Investigation Work Plan shall delineate the horizontal and vertical extent of any contamination resulting from the Fire which requires further remediation or response, and shall include a scope of work and a schedule.

2. Upon receipt of the Plaintiff’s written approval of the Site Investigation Work Plan, the Defendants shall implement the Site Investigation Work Plan in accordance with the approved schedule.

3. Within ninety (90) days after approval of the Site Investigation Work Plan, the Defendants shall submit to the Plaintiff, for its review and approval, a report of the findings of the Site investigation (“SIR”) and a proposed Remedial Objectives Report (“ROR”).

4. Within forty-five (45) days after receipt of the Plaintiff’s written approval of the SIR and ROR, the Defendants shall submit to the Plaintiff, for its review and approval, a Remedial Action Plan (“RAP”). The RAP shall include a plan to address any contaminants in exceedance of the approved remediation objectives caused by the Release both on and off-site. The RAP shall include a scope of work and a schedule.

5. Upon receipt of the Plaintiff's written approval of the RAP, the Defendants shall implement the RAP in accordance with the approved schedule.

6. Within one hundred and eighty (180) days after approval of the RAP, the Defendants shall submit to the Plaintiff, for its review and approval, a Remedial Action Completion Report ("RACR"), which is the final report documenting achievement of all remediation objectives.

7. At least fourteen (14) days prior to any field work under the Site Investigation Work Plan or the RAP, such as sampling or excavating, the Defendants shall provide notice to the Plaintiff, as identified in Section VI herein, of the date and time that such work is scheduled.

8. The Defendants shall notify each contractor to be retained to perform work required by this Agreed Order of the requirements of this Agreed Order relevant to the activities to be performed by that contractor, including all relevant work schedules and reporting deadlines, and shall provide a copy of this Agreed Order to each contractor already retained no later than seven (7) days after the date of entry of this Agreed Order.

#### **F. Recordkeeping Requirements**

1. Upon entry of this Agreed Order, and continuing until further order of this Court or written approval by the Plaintiff, the Defendants shall maintain records of the amount of used and or waste tires, used car parts, scrap and/or used batteries, inventory of chemicals, fluids and other materials at the Facility.

2. The Defendants shall make the documents available to the Plaintiff within fourteen (14) days after the Plaintiff's request.

#### **G. Approval of Plans, Reports and Submittals**

If the Plaintiff and/or Illinois EPA approves any plan or submittal, the Defendants shall

implement the approved plan or other submittal pursuant to the approved schedule. If the Plaintiff and/or Illinois EPA approves with conditions or disapproves of any plan, report or other submittal, including the mitigation, site investigation, corrective action, or remediation plans and other submittal or any revisions thereto, the Defendants shall, within twenty-one (21) days after receiving written notice of such approval with conditions or disapproval, submit a proposal that addresses the Plaintiff's and/or Illinois EPA's conditions or reasons for disapproval. This process shall continue until the Plaintiff and/or Illinois EPA approves the document or either party invokes the Dispute Resolution provision in Section X of this Agreed Order as to that document.

#### **H. Monthly Progress Reports**

1. The Defendants shall provide monthly progress reports ("Progress Reports") to Thomas Rivera, Northern Regional Manager, Illinois EPA, as identified in Section VI herein, on the status of all work required to be performed under Sections III and IV of this Agreed Order. The Defendants shall submit the progress reports within 7 calendar days after the end of each month, or such other date or frequency as agreed to in writing in accordance with Section XIII of this Agreed Order. The first Progress Report shall be due within 7 calendar days after the expiration of the first full month after the date of entry of this Agreed Order.

2. The Defendants shall continue to submit Progress Reports until the Defendants receive a No Further Remediation letter from the Illinois EPA, or until further order of this Court.

3. The Progress Reports shall include all actions that have been taken during the previous reporting period toward achieving compliance with Sections III and IV of this Agreed Order. The Progress Reports shall include, at a minimum:

- a. Tasks completed during the last reporting period;
- b. The date on which any task was completed;

- c. An identification of any event that has caused or may cause delay in completing any tasks, and a summary of efforts made, if any, to mitigate the delay;
- d. The progress made toward completing the tasks required by this Agreed Order; and
- e. The activities scheduled for the next month.

#### **V. PLAINTIFF'S COSTS**

1. The Defendants shall reimburse the Illinois EPA for all reasonable and necessary past and future costs incurred by the Illinois EPA from the date of the Release in its oversight of the site investigation and remediation, and its review and evaluation of documents and reports submitted to it pursuant to this Agreed Order ("Response Costs"). Response Costs shall include direct program costs, allocated program costs and indirect costs. Direct costs shall include, but are not limited to, all related payroll costs for all applicable organizational units, outside contractor and/or consultants fees, travel costs, and costs associated with photographs, maps, and laboratory services. Allocated program costs represent program costs that are related to the overall program operations, including but not limited to, fiscal services, bill preparation and clerical duties, Division of Legal Counsel program meetings and regulatory preparation and implementation, staff program meetings and management oversight. Indirect costs are those costs incurred by the Illinois EPA in day-to-day operations, including but not limited to, the operation and maintenance of buildings, utilities and administrative costs. The Illinois EPA reserves the right to seek any additional costs incurred by the Illinois EPA pursuant to Section 22.2(f) of the Act. The Illinois EPA's response and oversight costs shall not be considered as civil penalties, and nothing in this Agreed Order shall be construed to limit the Plaintiff from seeking civil penalties up to the

maximum recoverable under Section 42 of the Act, 415 ILCS 5/42 (2020).

2. The Illinois EPA will submit to the Defendants on a quarterly basis invoices for Response Costs incurred during the billing period with supporting documentation. The supporting documentation shall include, at a minimum: (1) hours billed by each biller per pay period; and (2) copies of invoices for all outside services and equipment. Within forty-five (45) days of the receipt of each invoice, the Defendants shall pay (unless contested pursuant to the terms of this Agreed Order) the Response Costs detailed therein by means of a check or checks made payable to the Illinois Environmental Protection Agency for deposit into the Hazardous Waste Fund. The case name, case number, LPC number, and the LP52 code shall appear on the face of the check. The Defendants shall send each check and a copy of the Illinois EPA invoice to:

Division of Administration Fiscal Services Section  
Illinois EPA  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

If the Defendants do not receive an invoice in the time frame indicated above, this failure does not waive the Illinois EPA's right to submit an invoice or receive cost reimbursement for Response Costs. A copy of the check(s) and the transmittal letters shall be sent to:

Audrey Avila  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
Audrey.Avila@ilag.gov

## **VI. NOTICES**

All submittals and correspondence relating to the requirements of this Agreed Order shall be directed to the following persons:

**For the Plaintiff:**

Audrey Avila  
Rebecca Kanz  
Assistant Attorneys General  
Illinois Attorney General's Office  
Environmental Bureau North  
69 W. Washington St., 18th Floor  
Chicago, Illinois 60602  
(773) 590-7046  
Audrey.Avila@ilag.gov  
Rebecca.Kanz@ilag.gov  
(By electronic mail)

Mark Gurnik  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62794  
(217) 782-5544  
Mark.Gurnik@Illinois.gov  
(By electronic mail)

Thomas Rivera  
Northern Regional Manager  
Illinois Environmental Protection Agency  
4302 North Main Street  
Rockford, Illinois 61103  
(847) 294-4079  
Thomas.Rivera@illinois.gov  
(One copy by electronic mail and two hard copies to the mailing address)

Patricia Silva  
Remedial Project Management Section  
Bureau of Land  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
PO Box 19276  
Springfield, IL 62794-9276  
(217) 524-3300  
Patricia.silva@illinois.gov  
(One copy by electronic mail and two hard copies to the mailing address)

For the Defendants:

Richard Porter  
Hinshaw & Culbertson LLP  
100 Park Avenue  
Rockford, Illinois 61101  
(815) 490-4900  
rporter@hinshawlaw.com

Thomas Mowery  
Mowery Auto Parts  
686 North Van Buren Avenue  
Freeport, Illinois 61032  
(815) 599-0490  
Bne2009@aol.com

**VII. DUTY TO COOPERATE**

The Plaintiff and the Defendants shall cooperate with each other in the implementation of this Agreed Order.

**VIII. COMPLIANCE WITH OTHER LAWS AND REGULATIONS**

This Agreed Order in no way affects the responsibilities of the Defendants to comply with any other federal, state or local laws or regulations, including but not limited to the Act, 415 ILCS 5/1 *et seq.* (2020), and the Board Regulations, 35 Ill. Adm. Code Part 101 *et seq.*

**IX. STIPULATED PENALTIES**

1. If the Defendants fail to complete any activity or fail to comply with any response or reporting requirement by the date specified in this Agreed Order, the Defendants shall provide notice to the Plaintiff of each failure to comply with this Agreed Order and shall pay stipulated penalties in the amount of \$400.00 per day per violation for up to the first fifteen (15) days of violation, \$500.00 per day per violation for the next fifteen (15) days of violation, and \$1,000.00 per day per violation thereafter until such time that compliance is achieved. The Plaintiff may make a demand for stipulated penalties upon the Defendants for its noncompliance with this Agreed Order. However, failure by the Plaintiff to make this demand shall not relieve the



Defendants of the obligation to pay stipulated penalties. All stipulated penalties shall be payable within thirty (30) calendar days of the date the Defendants know or should have known of its noncompliance with any provision of this Agreed Order.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Defendants not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

3. The stipulated penalties shall be enforceable by the Plaintiff and shall be in addition to, and shall not preclude the use of, any other remedies or sanctions arising from the failure to comply with this Agreed Order.

4. All stipulated penalty and interest payments shall be made by certified check, cashier's check or money order payable to Illinois EPA for deposit into the Environmental Protection Trust Fund. Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency  
Fiscal Services  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

The case name and case number shall appear on the face of the certified check, cashier's check or money order. A copy of the certified check, cashier's check or money order and any transmittal letter shall be sent to:

Audrey Avila  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800

Chicago, Illinois 60602  
Audrey.Avila@ilag.gov

#### **X. DISPUTE RESOLUTION**

The parties shall use their best efforts to resolve any and all disputes or differences of opinion arising with regard to this Agreed Order, informally and in good faith, within seven (7) days of a party providing notice to the other parties of such a dispute/of written initiation of dispute resolution proceedings. If, however, a dispute arises concerning this Agreed Order that the parties are unable to resolve informally, any party to this Agreed Order may, by written motion, request that an evidentiary hearing be held before the Circuit Court for the Fifteenth Judicial Circuit, Stephenson County, Illinois, to resolve the dispute between the parties.

#### **XI. FORCE MAJEURE**

1. The Defendants may declare *force majeure* in appropriate circumstances as follows:

a. A *force majeure* event is an event arising solely beyond the control of the Defendants, which prevents the timely performance of any of the requirements of this Agreed Order. For the purposes of this Agreed Order, *force majeure* shall include, but is not limited to, events such as floods, tornadoes, other natural disasters, labor disputes beyond the reasonable control of the Defendants, or prohibitions imposed by any court having jurisdiction over the Defendants.

b. When, in the opinion of the Defendants, a *force majeure* event occurs which causes or may cause a delay in the performance of any of the requirements of this Agreed Order, the Defendants shall orally notify the Plaintiff within forty-eight (48) hours of the occurrence. Written notice shall be given to the Plaintiff as soon as practicable, but no later than ten (10) business days after the claimed occurrence.

c. Failure by the Defendants to comply with the notice requirements of the preceding paragraph shall render this *force majeure* provision voidable by the Plaintiff as to the specific event for which the Defendants have failed to comply with the notice requirement. If voided, this section shall be of no effect as to the particular event involved.

d. An increase in costs associated with implementing any requirement of this Agreed Order shall not, by itself, excuse the Defendants under the provisions of this Agreed Order from a failure to comply with such a requirement.

## **XII. RIGHT OF ENTRY**

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon the Facility which is the subject of this Agreed Order, at all reasonable times for the purpose of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

## **XIII. EXTENSIONS AND MODIFICATIONS**

The parties may, by mutual consent, extend any compliance dates or modify the terms of this Agreed Order without leave of court. Any such agreed modification shall be in writing, signed by authorized representatives of each party and incorporated into this Agreed Order by reference. Any request for modification shall be made by the Defendants in writing and shall be independent of any other submittal made pursuant to this Agreed Order. Moreover, notice of a request for any proposed modification shall be provided to the Plaintiff's representatives listed in Section VI of this Agreed Order.

**XIV. RESERVATION OF RIGHTS**

Nothing contained herein shall be deemed an admission of any wrongful conduct or violation of any applicable statute, law or regulations thereunder by the Defendants, nor a finding of fact or adjudication by this Court of any of the facts or claims contained in the Verified Complaint. Plaintiff reserves the right to seek additional technical relief and civil penalties in this matter.

**XV. RETENTION OF JURISDICTION**

This Court shall retain jurisdiction of this matter and shall consider any motion by the Plaintiff or the Defendants for the purposes of interpreting and enforcing the terms and conditions of this Agreed Order.

**XVI. BINDING ON SUCCESSORS, ASSIGNS AND FUTURE OWNERS/OPERATORS**

This Agreed Order shall be binding upon the Defendants, their successors, assigns and future owners and/or operators of the Facility.

**XVII. SIGNATURE**

This Agreed Order may be signed in counterparts, all of which shall be considered one agreement.

**XVIII. STATUS CONFERENCE WITH THE COURT**

This matter is set for status conference on June 13, 2023 at 1:30 PM a.m./p.m. without further notice.

WHEREFORE the parties, by their representatives, enter into this Agreed Immediate and Preliminary Injunction Order and submit it to the Court that it may be approved and entered.

**AGREED:**

PEOPLE OF THE STATE OF ILLINOIS  
*ex rel.* KWAME RAOUL, Attorney General  
of the State of Illinois,

MATTHEW J. DUNN, Chief  
Environmental/Asbestos Litigation Division

BY: Stephen J. Sylvester  
Stephen J. Sylvester, Chief  
Environmental Bureau  
Assistant Attorney General

DATE: 4/19/23

OUTLAW TBO LLC

BY: Jan A

TITLE: owner

DATE: 4-18-23

CROSSROADS METALS INC., d/b/a MOWERY AUTO PARTS

BY: Jan A

TITLE: owner

DATE: 4-18-23

**ENTERED:**

DMJ  
JUDGE

DATE: 4/22/2023