

ILLINOIS POLLUTION CONTROL BOARD  
November 18, 2010

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 11-12
	)	(Enforcement - RCRA)
ALTORFER, INC., an Iowa corporation,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On September 20, 2010, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against Altorfer, Inc. (Altorfer). The complaint concerns Altorfer's diesel-powered generator manufacturing and assembly facility located in Bartonville, Peoria County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that Altorfer violated the following provisions in the manner described: (1) Section 21(f) of the Act (415 ILCS 5/21(f) (2008)) by failing to comply with the requirements of Section 722.134(d) of the Board's waste disposal regulations (35 Ill. Adm. Code 722.134(d)); (2) Section 21(i) of the Act (415 ILCS 5/21(i) (2008)) by engaging in an act that produced hazardous waste, in violation of the regulations adopted by the Board under subsections (a) and (c) of Section 22.4 of the Act (415 ILCS 5/22.4(a), (c) (2008)); (3) Sections 703.121(a) and (b) of the Board's waste disposal regulations (35 Ill. Adm. Code 703.121(a), (b)) by storing hazardous waste in containers without a Resource Conservation and Recovery Act (RCRA) permit; (4) Section 722.111 of the Board's waste disposal regulations (35 Ill. Adm. Code 722.111) by failing to conduct the required hazardous waste determination for still bottoms; (5) Section 21(e) of the Act (415 ILCS 5/21(e) (2008)) by sending still bottoms to a facility that is not permitted to accept hazardous waste; (6) Section 722.112(c) of the Board's waste disposal regulations (35 Ill. Adm. Code 722.112(c)) by sending still bottoms to a facility without a United States Environmental Protection Agency (USEPA) identification number; (7) Section 722.120(a) of the Board's waste disposal regulations (35 Ill. Adm. Code 722.120(a)) by failing to prepare a manifest before offering still bottoms for transport; and (8) Section 722.123(a) of the Board's waste disposal regulations (35 Ill. Adm. Code 722.123(a)) by failing to follow the procedures for manifests when transporting still bottoms.

Also on September 20, 2010, the People and Altorfer filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2008)). This filing is authorized by Section 31(c)(2) of the Act

(415 ILCS 5/31(c)(2) (2008)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Limestone Independent News* on October 20, 2010. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2008); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. *See* 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of Altorfer's operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2008)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Altorfer does not admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2008)), which may mitigate or aggravate the civil penalty amount. Altorfer agrees to pay a civil penalty of \$25,000. The People and Altorfer have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.

### **ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Altorfer must pay a civil penalty of \$25,000 no later than December 20, 2010, which is the first business day following the 30th day after the date of this order. Altorfer must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name, case number, and Altorfer's federal tax identification number must appear on the face of the certified check or money order.
3. Altorfer must submit payment of the civil penalty to:

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

Altorfer must send a copy of the certified check or money order and any transmittal letter to:

Michael D. Mankowski  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, IL 62702

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2008); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 18, 2010, by a vote of 4-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board