## ILLINOIS POLLUTION CONTROL BOARD May 21, 2020

PEOPLE OF THE STATE OF ILLINOIS,	)
Complainant,	)
v.	) PCB 20-68
CERRO FLOW PRODUCTS, LLC, a	) (Enforcement - Land)
Delaware limited liability company,	)
Respondent.	)

OPINION AND ORDER OF THE BOARD (by C.M. Santos):

On March 20, 2020, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Cerro Flow Products, LLC (Cerro Flow). The complaint concerns Cerro Flow's copper tubing manufacturing facility located at 3000 Mississippi Avenue in Sauget, St. Clair 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 (2018)), 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 (2018); 35 Ill. Adm. Code 103. In this case, the People allege that Cerro Flow violated the following authorities:

**Count I**—Section 21(f)(1) and (f)(2) of the Act (415 ILCS 5/21(f)(1), (f)(2) (2018)) and Sections 703.121(a)-(b) of the Board's waste disposal regulations (35 III. Adm. Code 703.121(a)-(b)) by conducting hazardous waste storage operations at the facility without a RCRA permit;

**Count II**—Section 21(f)(2) of the Act (415 ILCS 5/21(f)(2) (2018)) and Section 725.212(a) of the Board's waste disposal regulations (35 Ill. Adm. Code 725.212(a)) by failing to have a written closure plan for the facility;

**Count III**—Section 21(f)(2) of the Act (415 ILCS 5/21(f)(2) (2018)) and Section 725.242(a) of the Board's waste disposal regulations (35 Ill. Adm. Code 725.242(a)) by failing to have a written cost estimate or financial assurance for closure of the facility;

**Count IV**—Section 21(f)(2) of the Act (415 ILCS 5/21(f)(2) (2018)) and Section 725.274 of the Board's waste disposal regulations (35 Ill. Adm. Code 725.274) by failing to conduct weekly inspections of the area of the facility in which containers of hazardous waste were maintained; and

**Count V**—Section 21(f)(2) of the Act (415 ILCS 5/21(f)(2) (2018)) and Section 725.135 of the Board's waste disposal regulations (35 Ill. Adm. Code 725.135) by failing to provide

adequate aisle space to allow the unobstructed movement of personnel, fire protection, and decontamination equipment.

On March 20. 2020, the People and Cerro Flow 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) (2018)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2018)), 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 Belleville News-Democrat on April 20, 2020. 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) (2018); 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 Cerro Flow'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) (2018)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Cerro Flow does not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2018)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, Cerro Flow agrees to pay a civil penalty of \$20,000 within 30 days after the date of this order. The People and Cerro Flow have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

## **ORDER**

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. Cerro Flow Products, LLC must pay a civil penalty of \$20,000 no later than Monday, June 22, 2020, which is the first business day following the 30th day after the date of this order. Cerro Flow Products, LLC, 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 and case number must appear on the face of the certified check or money order.
- 3. Cerro Flow Products, LLC 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 Cerro Flow Products, LLC must send a copy of the certified check or money order and any transmittal letter to:

Chelsea K. Neilson, Assistant Attorney General Environmental Bureau Illinois Attorney General's Office 500 South 2nd Street Springfield, Illinois 62706

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2018)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2018)).
- 5. Cerro Flow Products, LLC must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

## 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) (2018); 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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court		
Parties	Board	
Andrew Armstrong Assistant Attorney General Environmental Bureau Illinois Attorney General's Office 500 South 2nd Street Springfield, Illinois 62706 aarmstrong@atg.state.il.us	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601 don.brown@illinois.gov	
Cerro Flow Products, LLC		

c/o Illinois Corporation Service Co. 801 Stevenson Drive	
Springfield, Illinois 62704	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 21, 2020, by a vote of 4-0.

Don A. Brown, Clerk

Illinois Pollution Control Board