

ILLINOIS POLLUTION CONTROL BOARD
September 22, 2022

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 21-29
)	(Enforcement - Air)
LMS INDUSTRIES, INC., an Illinois limited)	
liability company, and TOP METAL BUYERS))	
INC., an Illinois corporation,)	
)	
Respondent.)	

ORDER OF THE BOARD (by M. Gibson):

On October 16, 2020, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Top Metal Buyers, Inc. (Top Metal). On November 5, 2020, the Board accepted the complaint for hearing. On September 17, 2021, the People filed an amended complaint adding LMS Industries, LLC (LMS) as an additional respondent. On November 4, 2021, the Board accepted the amended complaint for hearing. The amended complaint concerns Top Metal and LMS' scrap metal recycling facility located at 808 Walnut Avenue, East St. Louis in St. Clair County. The parties now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2020)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2020); 35 Ill. Adm. Code 103.

In this case, the People allege that Top Metal and LMS:

Count I—Violated Section 9(a) of the Act, 415 ILCS 5/9(a), by causing or allowing the open burning of insulated copper wire.

Count II—Violated Section 9(c) of the Act, 415 ILCS 5/9(c), by causing or allowing the open burning of refuse in a chamber not approved by Illinois EPA for the open burning of refuse.


Count III—Violated Section 728.134(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 728.134(a), by causing or allowing the special waste from open burning to be deposited at a landfill not permitted to accept special or hazardous wastes.

On September 15, 2022, the People, Top Metal, and LMS 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) (2020)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2020)), 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). Under the proposed stipulation, Top Metal and LMS do not affirmatively admit the alleged violations and agree to pay a civil penalty of \$30,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2020); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 22, 2022, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board