## ILLINOIS POLLUTION CONTROL BOARD December 20, 2001

| PEOPLE OF THE STATE OF ILLINOIS, | ) |                   |
|----------------------------------|---|-------------------|
| Complainant,                     | ) |                   |
| V.                               | ) | PCB 00-9          |
| BRAKE'S ENTERPRISES, INC. d/b/a  | ) | (UST Enforcement) |
| BRAKES AMOCO,                    | ) |                   |
|                                  | ) |                   |
| Respondent.                      |   |                   |

## OPINION AND ORDER OF THE BOARD (by C.A. Manning):

On July 21, 1999, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Brake's Enterprises, Inc. d/b/a Brake's Amoco (Brake's). *See* 415 ILCS 5/31(c)(1) (2000); 35 Ill. Adm. Code 103.204. The People allege that Brake's violated 35 Ill. Adm. Code 732.202(a)-(d). The People further allege that Brake's violated these provisions by failing to comply with the reporting and response requirements regarding the release of an unknown quantity of gasoline from an underground storage tank. The complaint concerns Brake's gasoline service station in Fisher, Champaign County.

On November 16, 2001, the People and Brake's filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (Act) (415 ILCS 5/31(c)(1) (2000)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000)). See 35 III. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief, including published notice in the *Fisher Reporter* on November 21, 2001. 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) (2000); 35 III. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 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 Brake'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) (2000)). The People and Brake's have satisfied Section 103.302. The stipulation and proposal for settlement does not indicate whether Brake's admits or denies the alleged violations. Brake's agrees to pay a civil penalty of \$5,000 by January 31, 2002. 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. Brake's Enterprises, Inc. d/b/a Brake's Amoco (Brake's) must pay a civil penalty of \$5,000 no later than January 31, 2002, which is the date specified in the settlement. Brake's must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Brake's social security number or federal employer identification number must be included on the certified check or money order.
- 3. Brake's must send the certified check or money order to:

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

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
- 5. Brake's must cease and desist from the alleged violations.

## 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) (2000); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 20, 2001, by a vote of 7-0.

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Dorothy M. Gunn, Clerk Illinois Pollution Control Board