ILLINOIS POLLUTION CONTROL BOARD March 6, 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 01-156
UNION PACIFIC RAILROAD, a Delaware)	(Enforcement - Air)
corporation, Respondent.)	

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On May 17, 2001, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Union Pacific Railroad. *See* 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The People allege that Union Pacific Railroad violated Section 9(a) of the Environmental Protection Act (Act) (415 ILCS 5/9(a) (1998)) and Section 201.141 of the Board's regulations (35 Ill. Adm. Code 201.141. The People further allege that Union Pacific Railroad violated these provisions by releasing styrene vapors and associated vapors, and polymerized styrene product, into the air. The complaint concerns Union Pacific Railroad's tanker car GTAX 54407 as it moved through the town of Rockwood in Randolph County.

On December 23, 2002, the People and Union Pacific Railroad 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) (2002)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)). 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 *Randolph County Herald Tribune* on January 23, 2003, and the *Southern Illinoisan* on January 30, 2003. 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) (2002); 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. 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 Union Pacific Railroad'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) (2002)). The People and Union Pacific Railroad have satisfied Section 103.302. Union Pacific Railroad does not admit the alleged violations but agrees to pay a civil penalty of \$50,000. 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. Union Pacific Railroad must pay a civil penalty of \$50,000 no later than March 22, 2003, which is the 30th day after the date of this order. Union Pacific Railroad must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Union Pacific Railroad's social security number or federal employer identification number must be included on the certified check or money order.
- 3. Union Pacific Railroad 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) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
- 5. Union Pacific Railroad 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) (2002); 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 March 6, 2003, by a vote of 6-0.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board