

ILLINOIS POLLUTION CONTROL BOARD
January 20, 2005

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 05-52
)	(Enforcement - Water)
SAFE LOCK STORAGE 2, LLC, a Missouri)	
corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

On September 15, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Safe Lock Self Storage, Inc. See 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. On December 13, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed an amended complaint, naming as respondent Safe Lock Storage 2, LLC (Safe Lock Storage 2). See 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People filed a motion for leave to amend the complaint to correct the name of the respondent, which the Board granted by an order dated December 16, 2004. The complaint concerns Safe Lock Self Storage 2's construction site for a rental self-storage facility at 2215 Lebanon Avenue, Shiloh, St. Claire County. The parties now seek to settle. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2002)), 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 (2002); 35 Ill. Adm. Code 103. In this case, the People allege that Safe Lock Storage 2 violated Section 12(f) of the Act (415 ILCS 5/12(f) (2002)) and 35 Ill. Adm. Code 309.102 by developing and constructing the storage facility without first obtaining a National Pollutant Discharge Elimination System permit.

On December 13, 2004, the People and Safe Lock Self Storage 2 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)), 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 from hearing. The Board published newspaper notice in the *News-Democrat* on December 15, 2004. 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 Safe Lock Self Storage 2'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)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

Safe Lock Storage 2 admits the alleged violation. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2002), *as amended by* P.A. 93-575, (eff. Jan. 1, 2004), which may mitigate or aggravate the civil penalty amount. Safe Lock Self Storage 2 agrees to pay a civil penalty of \$1,000, which the parties stipulate is at least as great as Safe Lock Self Storage 2's economic benefit from delayed compliance, if any.

The People and Safe Lock Self Storage 2 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

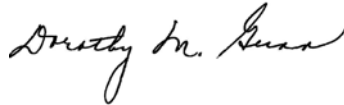
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Safe Lock Self Storage 2 must pay a civil penalty of \$1,000 no later than February 21, 2005, which is the first business day after the 30th day after the date of this order. Safe Lock Self Storage 2 must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Safe Lock Self Storage 2's social security number or federal employer identification number must be included on the certified check or money order.
3. Safe Lock Self Storage 2 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. Safe Lock Self Storage 2 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 January 20, 2005, by a vote of 5-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board