

ILLINOIS POLLUTION CONTROL BOARD  
September 1, 2005

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 01-115  
) (Enforcement - Air, Water, Land)  
VALLEY PETROLEUM, INC., an Illinois )  
corporation, )  
)  
Respondent. )

OPINION AND ORDER OF THE BOARD (by A. Moore):

On February 15, 2001, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Valley Petroleum, Inc. (Valley Petroleum). See 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns Valley Petroleum's service station at 260 Schmale Road, in Carol Stream, DuPage County. The parties now seek to settle without a public hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2004)), 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 (2004); 35 Ill. Adm. Code 103. In this case, the People allege that Valley Petroleum violated Sections 9(a), 12(a) and (d), and 57.6 of the Act (415 ILCS 5/9(a), 12(a) and (d), and 57.6 (2004)) and Board regulations at 35 Ill. Adm. Code 732.202, 732.300, and 732.302(d). According to the complaint, Valley Petroleum violated these provisions by (1) causing, threatening, or allowing air pollution; (2) causing, threatening, or allowing water pollution; (3) creating a water pollution hazard; (4) violating underground storage tank (UST) release 20-day and 45-day reporting requirements; (5) violating UST release response requirements; and (6) failing to file a free product report.

On July 25, 2005, the People and Valley Petroleum 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) (2004)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)), 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 *Carol Stream Press* on July 28, 2005. 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) (2004); 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 Valley Petroleum'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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The People and Valley Petroleum have satisfied Section 103.302.

The stipulation and proposed settlement also address the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount. Valley Petroleum neither admits nor denies the alleged violations but agrees to pay a civil penalty of \$10,000. 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. Valley Petroleum must pay a civil penalty of \$10,000 no later than October 3, 2005, which is the first business day following the 30th day after the date of this order. Valley Petroleum must pay the civil penalty by certified check, money order, or electronic funds transfer payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund.
3. Valley Petroleum 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

Valley Petroleum must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to:

Christopher Grant  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph Street, 20th Floor  
Chicago, Illinois 60601

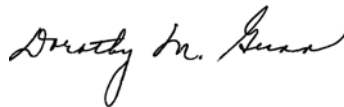
Mark Gurnik  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
5. Valley Petroleum must cease and desist from future violations of the 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) (2004); *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 September 1, 2005, by a vote of 5-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board