

ILLINOIS POLLUTION CONTROL BOARD
February 2, 2006

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 05-66
)	(Enforcement – Water)
PETCO PETROLEUM CORPORATION, an)	
Indiana corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On April 14, 2005, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed an amended complaint against Petco Petroleum Corporation (Petco). See 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns Petco’s oil production facilities and Class II injection wells near St. Elmo, Fayette County. The Board accepted the amended complaint for hearing on May 19, 2005. 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.* (2004)), 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 (2004); 35 Ill Adm. Code 103. In this case, the People allege that Petco violated Section 12(a) and (d) of the Environmental Protection Act (Act) (415 ILCS 5/12(a) and (d) (2004)) and Sections 302.203, 304.105, 304.106, and 302.208(g) of the Board’s effluent and water quality standards (35 Ill. Adm. Code 302.203, 304.105, 304.106, 302.208(g)) by causing or allowing water pollution and violating the chloride water quality standard. The complaint further states that these violations resulted from spills and leaks totaling approximately 1,100 barrels of salt water and 20 barrels of crude oil.

On December 22, 2005, the People and Petco 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)). 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 *Mt. Vernon Register-News* on December 24, 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. 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

Petco'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)). The People and Petco have satisfied Section 103.302. Under the proposed stipulation, Petco neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$135,000. 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. Petco Petroleum Company (Petco) must pay a civil penalty of \$135,000 no later than March 4, 2006, which is the 30th day after the date of this order. Petco must pay the civil penalty by a company check, payable to the Environmental Protection Trust Fund. The case number, case name, and Petco's social security number or federal employer identification number must be included on the certified check.
3. Petco must send the certified check to:

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

Copies of the check must be sent to:

Thomas Davis
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706

John Waligore
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 Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate

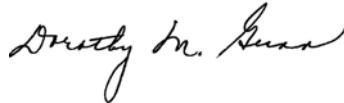
set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).

5. Petco 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) (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 February 2, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board