

ILLINOIS POLLUTION CONTROL BOARD
June 7, 2007

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 05-44
)	(Enforcement - Water)
ROGER KUBERSKI, d/b/a MOUNT)	
VERNON QUALITY TIMES, INC.,)	
)	
Respondent.)	

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

On September 2, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Roger Kuberski, d/b/a Mount Vernon Quality Times, Inc. (Kuberski). The complaint concerns Kuberski's recreational vehicle park on Illinois State Route 15 in Jefferson County. The parties now seek to settle without a 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 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 in count I of the complaint that Kuberski violated Section 12(f) of the Act (415 ILCS 5/12(f) (2004)) and Section 309.104(a) of the Board's regulations (35 Ill. Adm. Code 309.104(a)) by causing, threatening, or allowing the discharge of contaminants into the environment without a National Pollutant Discharge Elimination System (NPDES) permit and by failing to apply for reissuance of an NPDES permit before its expiration. According to count II of the complaint, Kuberski violated a special condition of the NPDES permit by failing to submit Discharge Monitoring Reports, resulting in a violation of Section 12(f) of the Act. Count III of the complaint alleges that Kuberski violated Section 12(f) of the Act, Sections 304.141(a) and 309.102 of the Board's regulations (35 Ill. Adm. Code 304.141(a), 309.102), and NPDES Permit No. IL0051063 by causing or allowing discharges of total suspended solids, CBOD₅, and ammonia nitrogen in excess of permitted limitations.

On May 2, 2007, the People and Kuberski 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 *Mount Vernon Register-News* on May 8, 2007. 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 Kuberski'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 Kuberski have satisfied Section 103.302. Kuberski admits the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount. Kuberski agrees to pay a civil penalty of \$1,200. 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. Kuberski must pay a civil penalty of \$1,200 no later than June 18, 2007, which is the first business day following the 10th day after the date of this order. Kuberski 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. Kuberski 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

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

Peggy Poitevint
Office of the Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62702

Vera Herst
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. Kuberski must cease and desist from future violations of the provisions of the Act and Board regulations that were the subject matter 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, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on June 7, 2007, by a vote of _____.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board