## ILLINOIS POLLUTION CONTROL BOARD December 6, 2007

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	)	
Complamant,	)	
**	)	PCB 08-29
V.	)	
	)	(Enforcement - Water)
GATEWAY BOBCAT OF HERBERER	)	
EQUIPMENT CO., INC. d/b/a BOBCAT OF	)	
ST. LOUIS, a Missouri corporation,	)	
	)	
Respondent.	)	

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

On October 3, 2007, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against the Gateway Bobcat of Herberer Equipment Co., Inc. d/b/a Bobcat of St. Louis (Gateway Bobcat). *See* 415 ILCS 5/31(c)(1) (2006); 35 Ill. Adm. Code 103.204.

The People allege that Gateway Bobcat violated Sections 9(c), 12(a), 12(b), 12(d), 12(f), 21(a), 21(d)(2), 21(e), 21(p)(1), and 21(p)(3) of the Environmental Protection Act (Act) (415 ILCS 5/9(c), 12(a), 12(b), 12(d), 12(f), 21(a), 21(d)(2), 21(e), 21(p)(1), 21(p)(3) (2006)) and Sections 302.203, 304.106, 309.102(a), 309.103, 309.243, 722.111, 739.122(d), and 808.121 of the Board's regulations (35 Ill. Adm. Code 302.203, 304.106, 309.102(a), 309.103, 309.243, 722.111, 739.122(d), 808.121).

The People further allege that Gateway Bobcat violated these provisions by (1) causing, threatening or allowing water pollution; (2) causing or tending to cause offensive conditions in the unnamed tributary of Schoenberger Creek; (3) violating the Board's water quality standards; (4) operating equipment capable of contributing to water pollution without a permit granted by the Illinois Environmental Protection Agency; (5) depositing a contaminant upon the land in such place and manner so as to create a water pollution hazard; (6) causing, allowing, or threatening the discharge of contaminants into waters of the State without a National Pollutant Discharge Elimination System (NPDES) permit; (7) failing to apply for an NPDES permit; (8) discharging effluent that contained settleable solids and turbidity; (9) causing or allowing the open dumping of waste in a manner resulting in litter and in open burning; (10) disposing, abandoning, or storing or transporting waste at or to a site which does not meet the requirements of the Act and the Board's standards and regulations; (11) causing or allowing the open burning of refuse; (12) failing to make a hazardous waste determination; (13) failing to make a special waste determination; and (14) failing to perform the proper clean-up steps after releasing used oil into the environment and allowing used oil to remain on and in the soil. The complaint concerns the wash bay at Gateway Bobcat's facility located at 9801 W. State Route 161 in Fairview Heights, St. Clair County.

On October 26, 2007, the People and Gateway Bobcat 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) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)). See 35 III. 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 St. Clair Journal on October 31, 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) (2006); 35 III. 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 Gateway Bobcat'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) (2006)). The People and Gateway Bobcat have satisfied Section 103.302. Gateway Bobcat does not affirmatively admit the alleged violations and agrees to pay a civil penalty of \$30,000. 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. Gateway Bobcat must pay a civil penalty of \$30,000 no later than Monday, January 7, 2008, which is the first business day after the 30th day after the date of this order. Gateway Bobcat must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency and designated to the Illinois Environmental Protection Trust Fund. The case number, case name, and Gateway Bobcat's federal employer identification number (FEIN) must be included on the certified check or money order.
- 3. Gateway Bobcat 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

Gateway Bobcat must send a copy of the certified check or money order and any transmittal letter to:

Michael D. Mankowski Assistant Attorney General Environmental Bureau 500 South Second Street Springfield, IL 62702

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).
- 5. Gateway Bobcat 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) (2006); 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 III. 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 December 6, 2007, by a vote of 4-0.

John T. Therriault, Assistant Clerk

Illinois Pollution Control Board