## ILLINOIS POLLUTION CONTROL BOARD January 22, 2009

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
V.		PCB No. 03-182
		(Enforcement)
VERTELLUS SPECIALTIES, INC.,	)	(Emoreemont)
an INDIANA CORPORATION, <sup>1</sup>	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by G.L. Blankenship):

On April 8, 2003, , the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a 14-count complaint against Vertellus Industries, Inc. The complaint concerns Vertellus Industries' coal tar distillation process plant, located at 1450 Edwardsville Road, Granite City, Madison County. The parties now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), 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 (2006); 35 Ill. Adm. Code 103. In this case, the People allege that Vertellus Industries violated Sections 9(a) and (b), 12(d), and 21(e), and (f) of the Act (415 ILCS 5/9(a), (b), 12(d), and 21(e)(f) (2006)), along with the Board's rules at Sections 201.143, 219.501(a), 703.121(a), 722.123(a), 725.131, 725.151(b), 725.156(j), and 725.273(a) (35 Ill. Adm. Code 201.143, 219.501(a), 703.121(a), 722.123(a), 722.123(a), 725.131, 725.151(b), 725.156(j), and 725.273(a)).

The People allege that Vertellus Industries violated Section 9(a) of the Act (415 ILCS 5/9(a) (2006)) and Sections 219.501(a) and 201.143 (35 Ill. Adm. Code 219.501(a)) by operating batch stills with less than the required efficiency (Count I), and by operating those stills and scrubbers after the expiration of the 270-day operating period without obtaining an operating permit (Count III), respectively. The People also allege that Vertellus Industries violated Section 9(a) of the Act Act (415 ILCS 5/9(a) (2006)) by allowing the emission of 1,500 gallons of creosote in November 2000 so as to cause air pollution (Count XI), and allowing the emission of particulate matter, volatile organic material and carbon monoxide, via batch still fire, in January 2004 so as to cause air pollution (Count XIV<sup>2</sup>). The People allege that Vertellus Industries

<sup>&</sup>lt;sup>1</sup> Vertellus was formerly known as Reilly Industries, Inc..

 $<sup>^{2}</sup>$  In the <u>Stipulation and Proposal for Settlement</u>, received by the Pollution Control Board on 1/13/09, Count XIV is a scrivener's error listed as the second Count XIII.

violated Section 9(b) of the Act Act (415 ILCS 5/9(b) (2006)) by failing to comply with Condition 2(d) of its construction permit (Count II).

The People further allege that Vertellus Industries violated Sections 12(d) and 21(e) of the Act (415 ILCS 5/12(d) and 21(e) (2006)) by allowing releases at various times in the year 2000 of electro binder pitch, crude coal tar and creosote, upon the land so as to create a water pollution hazard (Count X), and by allowing hazardous waste to leak upon the ground at a disposal site that did not meet the requirements of the Act and associated regulations (Count IV). The People also allege that Vertellus Industries violated Section 21(f) of the Act in conjunction with several Board Rules: Section 703.121(a) by operating a hazardous waste facility without a permit issued by the Illinois EPA (Count V); Section 725.131 by failing to maintain and operate said facility in a manner to minimize the possibility of a sudden release of hazardous waste to the soil or air (Count VI); Sections 725.151(b) and 725.156(j) by failing to report the release of a hazardous waste in June and July 2000 to the proper authorities, and failing to submit a written report to the Illinois EPA 15 days after the implementation of the facility contingency plan (Count VII); Section 725.273(a) by failing to manage hazardous waste in a closed container during storage (Count VIII); Section 722.123(a) by failing to timely send a copy of a June 2000 manifest to the Illinois EPA (Count IX); and, Section 725.131 by allowing the release of crude coal tar in July 2003, thereby failing to maintain and operate a facility in a manner to minimize the release of hazardous waste to the soil or air (Count XIII<sup>3</sup>). The stipulation also notes that count XII of the complaint is withdrawn.

On January 13, the People and Vertellus Industries, Inc. 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)), 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). Under the proposed stipulation, Vertellus Industries neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$140,000.00.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2006); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

<sup>&</sup>lt;sup>3</sup> Count XIII referenced here is the first Count XIII listed in the <u>Stipulation and Proposal for</u> <u>Settlement</u>. *See also* footnote 1, page 1.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 22, 2009, by a vote of 5-0.

John T. Theriaut

John Therriault, Assistant Clerk Illinois Pollution Control Board