ILLINOIS POLLUTION CONTROL BOARD March 19, 2009

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 09-16
)	(Enforcement – Land, Noise)
)	
MYERS INDUSTRIES, INC.,,)	
)	
Respondent.)	

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

On September 12, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Myers Industries, Inc. (Myers). The complaint concerns Myers' manufacturing facility located at 2200 West 5th Street Road in Lincoln, Logan 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 Myers violated Sections 21(a), 21(d)(1), 21(e), 21(f)(1), 21(f)(2), 21(p), and 24 of the Act (415 ILCS 5/21(a), (d)(1), (e), (f)(1), (f)(2), (p), 24 (2006)), Section 812.101(a) of the Board's waste disposal regulations (35 Ill. Adm. Code 812.101(a)), Sections 703.121(a) and (b) of the Board's Resource Conservation and Recovery Act (RCRA) permit program regulations (35 Ill. Adm. Code 703.121(a), (b)), Sections 722.134(a) and (c), and 725.273(a) of the Board's hazardous waste regulations (35 Ill. Adm. Code 722.134(a), (c), 725.273(a)), Section 812.101(a) of the Board's waste disposal regulations (35 Ill. Adm. Code 812.101(a)), and Sections 900.102, 901.102(a) and (b), and 901.106(a) of the Board's noise regulations (35 Ill. Adm. Code 901.102(a), 901.102(b), 901.106(a)).

The People further allege that Myers violated these provisions by (1) causing or allowing the open dumping of refuse and waste, and disposing or abandoning wastes at a site that does not meet the requirements of the Act and underlying regulations and standards; (2) conducting a waste-storage or waste-disposal operation without a permit; (3) causing or allowing open dumping in a manner resulting in litter; (4) storing hazardous wastes without a RCRA permit; (5) storing hazardous wastes in unlabeled containers; (6) storing hazardous wastes in open containers; (7) exceeding daytime and nighttime numeric sound limits for sound emitted from a Class C Land to a Class A Land; and (8) emitting sound pressure levels constituting a prominent discrete tone. The People ask the Board to order Myers to cease and desist from further violations and impose a civil penalty of not more than the statutory maximum.

On March 13, 2009, the People and Myers 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, the Myers admits the alleged violations and agrees to pay a civil penalty of \$15,000.

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.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 19, 2009, by a vote of 5-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board