ILLINOIS POLLUTION CONTROL BOARD April 2, 2009

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
Complaniant,)	
V.)	PCB 09-64
)	(Enforcement - Land)
CITGO PETROLEUM CORPORATION, a)	
Delaware corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On March 18, 2009¹, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed an amended four-count complaint against Citgo Petroleum corporation, a Delaware corporation licensed to do business in Illinois (Citgo), concerning Citgo's petroleum refinery located in Lemont, Will County, Illinois. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposal for settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), 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 (2006); 35 Ill. Adm. Code 103. In this case, the People allege that Citgo violated Sections 21(e) and 21(i) of the Act, (415 ILCS 5/21(e) and 21(i) (2006)), and Sections 722.120(a)(1) and 722.111 of the Board's regulations (35 Ill. Adm. Code 722.120(a)(1) and 722.111 (2006)) by disposing of hazardous waste at a facility not permitted to accept hazardous waste (Count I); by failing to perform a hazardous waste determination (Count II); by failing to manage hazardous waste in accordance with the Act (Count III); and, by failing to prepare a manifest prior to offering the hazardous waste for off-site transportation and disposal (Count IV).

On February 23, 2009, the People and Citgo filed a stipulation and proposal for 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). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the Herald News on February 25, 2009. The Board did not receive any requests for hearing. The Board

¹ On March 5, 2009, the Board directed the People to file an amended complaint or an amended stipulation and proposal for settlement to address an inconsistency between the original complaint and stipulation and proposal for settlement, both filed February 23, 2009.

grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2006); 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 Citgo'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)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Citgo neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2006)), which may mitigate or aggravate the civil penalty amount. Citgo agrees to pay a civil penalty of \$5,000.00. The People and Citgo have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.

<u>ORDER</u>

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. Citgo must pay a civil penalty of \$5,000.00 no later than May 4, which is the first business day following the 30th day after the date of this order. Citgo must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Trust Fund. The case name, case number, and Citgo's Federal Employer Identification Number must appear on the face of the certified check or money order.
- 3. Citgo 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

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

Zemeheret Bereket-Ab Environmental Bureau Illinois Attorney General's Office 69 West Washington Street, Suite 1800 Chicago, Illinois 60602

- 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. Citgo 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 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on April 2, 2009, by a vote of 5-0.

In T. Thereian

John Therriault, Assistant Clerk Illinois Pollution Control Board