

ILLINOIS POLLUTION CONTROL BOARD
May 21, 2009

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 09-32
) (Enforcement – Land, Water)
WHALEN MANUFACTURING COMPANY,)
an Illinois corporation, and YETTER)
MANUFACTURING COMPANY, an Illinois)
corporation,)
)
Respondents.)

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

On November 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 Whalen Manufacturing Company (Whalen) and Yetter Manufacturing Company (Yetter) (collectively, respondents). The complaint concerns Whalen’s site, located at 1270 East Murray Street in Macomb, McDonough County, and Yetter’s site, located at 109 S. McDonough in Colchester, McDonough 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, count I of the People’s complaint alleges that Yetter violated Section 21(j) of the Act (415 ILCS 5/21(j) (2006)) and Sections 809.201, 809.301, 809.302(b) of the Board’s nonhazardous special waste regulations (35 Ill. Adm. Code 809.201, 809.301, 809.302(b)) by (1) hauling or otherwise transporting nonhazardous special waste generated within Illinois without a current, valid nonhazardous special waste hauling permit; (2) delivering nonhazardous special waste generated within Illinois without concurrently delivering a manifest to a special waste transporter; (3) delivering nonhazardous special waste in Illinois for disposal, storage, or treatment to a person who does not have a current, valid operating permit issued by the Illinois Environmental Protection Agency; and (4) conducting a special waste transportation operation in violation of regulations, standards, or permit requirements adopted by the Board.

Count II alleges that Whalen violated Sections 21(d) and 21(e) of the Act (415 ILCS 5/21(d), 21(e) (2006)), Sections 807.201(a) and 807.202(a) of the Board’s solid waste regulations (35 Ill. Adm. Code 807.201(a), 807.202(a)), and Section 809.302(a) of the Board’s nonhazardous special waste regulations (35 Ill. Adm. Code 809.302(a)) by (1) operating, causing, or allowing the development of a solid waste management site without a development permit; (2) accepting

special waste for disposal, storage, or treatment within Illinois from a special waste transporter who does not have a valid nonhazardous special waste hauling permit; (3) conducting a waste storage operation; and (4) disposing, treating, storing, or abandoning waste.

In count III, the People allege that respondents violated Section 12(f) of the Act (415 ILCS 5/12(f) (2006)) and Section 309.204(a) of the Board's water pollution regulations (35 Ill. Adm. Code 309.204(a)) by (1) causing, threatening, or allowing the discharge of contaminants into waters of the State without a valid National Pollutant Discharge Elimination System (NPDES) permit; and (2) causing or allowing the use or operation of a treatment works, pretreatment works, or wastewater source without an NPDES permit.

On May 11, 2009, the People, Whalen, and Yetter 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, Whalen and Yetter admit the alleged violations and agree to each pay a civil penalty of \$10,000 for a total civil penalty of \$20,000.

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 May 21, 2009, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board