

ILLINOIS POLLUTION CONTROL BOARD
September 3, 2009

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 06-82
)	(Enforcement – water)
BARGER ENGINEERING, INC., an Indiana)	
corporation,)	
)	
Respondent.)	

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

On December 1, 2005, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Barger Engineering, Inc. (Barger Engineering). See 415 ILCS 5/31(c)(1) (2008); 35 Ill. Adm. Code 103.204. On October 16, 2007, and September 15, 2008, the People filed amended complaints. The complaint and amended complaints concern Barger Engineering’s Phillipstown Unit Water Flood Plant approximately five miles south of Crossville, two wells on the CT Spencer lease, 1814 County Road 1750, Crossville, and a compression coupler located on a flow line at the Everett Spencer #9 Production Well, 1814 County Road 1720, Crossville, all in White 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 (2008)),¹ 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 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that Barger Engineering violated Section 12(a), (d) and (f) of the Act (415 ILCS 5/12(a), (d) and (f) (2008)) and 35 Ill. Adm. Code 302.203 and 302.208(g) on the following dates: September 23, 2005; September 26, 2005; May 18, 2006; April 20, 2007; August 2, 2007; May 3, 2008; and August 12, 2008. The People further allege that Barger Engineering violated these provisions by (1) causing the chloride content of the stream to exceed the water quality standard; (2) discharging pollutants without an National Pollutant Discharge Elimination System permit; and (3) causing or tending to cause water pollution. These violations allowed the release of barrels of salt water and of crude oil that traveled downstream into a drainageways and unnamed streams that flow into the Wabash River. This created a milky white precipitate and crude oil staining in the streams. This resulted in (1) offensive conditions of sludge and floating debris; (2) the death of small fish in the streams; and (3) chloride concentrations in the stream above the water quality standard.

¹ All citations to the Act will be to the 2008 compiled statutes, unless the provision at issue has been substantively amended in the 2008 compiled statutes.

On August 27, 2009, the People and Barger Engineering 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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, Barger Engineering neither admits nor denies the alleged violations and agrees to pay a civil penalty of a total civil penalty of \$50,000. Barger Engineering also has agreed to perform a supplemental environmental project that consists of a \$20,000 donation to the Illinois Petroleum Resources Board.

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) (2008); 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 September 3, 2009, by a vote of 4-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board