ILLINOIS POLLUTION CONTROL BOARD October 21, 2010

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
V.) PCB 07-81
) (Enforcement - Water)
DURRE BROS. WELDING AND MACHINE)
SHOP, INC., an Illinois corporation,)
)
Respondent.)

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

On February 28, 2007, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Durre Bros. Welding and Machine Shop, Inc. (Durre). The complaint concerns Durre's welding and machine shop located at 405 South Chestnut Street in Minonk, Woodford 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)), 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 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that Durre violated Sections 12(a), (d), and (f), and 21(a), (d)(2), and (e) of the Act (415 ILCS 5/12(a), (d), (f), 21(a), (d)(2), (e) (2008)) and Section 739.122 of the Board's used oil management regulations (35 Ill. Adm. Code 739.122). According to the complaint, Durre violated these provisions by causing, allowing, or threatening to cause water pollution (count I); by causing, threatening, or allowing the discharge of any contaminant into waters of the State without a National Pollutant Discharge Elimination System (NPDES) permit (count II); by causing or allowing contaminants to be deposited upon the land so as to create a water pollution hazard (count III); by causing or allowing the open dumping of waste (count IV); by disposing of waste at a site that is neither permitted by the Illinois Environmental Protection Agency as a sanitary landfill nor compliant with the requirements of the Act and regulations (count IV); and by storing containers filled with used oil without clearly labeling them as to their contents (count V).

On October 18, 2010, the People and Durre 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, Durre admits the alleged violations and agrees to pay a civil penalty of \$5,000.

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) (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 October 21, 2010, by a vote of 5-0.

John T. Themand

John Therriault, Assistant Clerk Illinois Pollution Control Board