## ILLINOIS POLLUTION CONTROL BOARD July 7, 2011

| PEOPLE OF THE STATE OF ILLINOIS,                      | )      |                                    |
|---|--------|------------------------------------|
| Complainant,  | )      |                                    |
| v.  | )      | PCB 10-109<br>(Enforcement - Land) |
| ROCK RIVER BLENDING COMPANY, an Illinois corporation, | )      | (Emorcement - Land)                |
| Respondent.   | )<br>) |                                    |

## OPINION AND ORDER OF THE BOARD (by A.S. Moore):

On June 29, 2010, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed an eight-count complaint against Rock River Blending Company (Rock River). The complaint concerns Rock River's industrial product and detergent manufacturing facility at 1515 Cunningham Street, Rockford, Winnebago County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), <sup>1</sup> 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 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that Rock River violated Sections 21(a), 21(d)(1) and (2), and 21(f)(1) and (2) of the Act (415 ILCS 5/21(a), (d)(1),(2), and (f)(1),(2) (2010)). The People also allege that Rock River violated Sections 703.121, 722.112, 808.121, 722.111, 724.401, 724.414, 728.137, 724.113(a), 724.113(b), 724.114(a), 724.114(b), 724.114(c), 724.115(a), 724.115(b), 724.116(a), 724.131, 724.132, 724.137, 724.151, 724.155, 724.173, 724.113(a), 724.113(b), 724.114(a), 724.114(b), 724.114(c), 724.115(a), 724.115(b), 724.116(a), 724.113(b), 724.114(a), 724.114(b), 724.114(c), 724.115(a), 724.115(b), 724.116(a), 724.131, 724.132, 724.137, 724.151, 724.155, 724.173, 724.15(a), 724.212(a), 724.218(a), 724.242(a), and 724.244).

According to the complaint, respondents violated these provisions by: 1) openly dumping waste, 2) conducting a waste disposal operation without a permit, 3) conducting a waste disposal operation without an RCRA permit, 4) failing to obtain a USEPA identification number, 5) failing to perform a special waste determination, 6) failing to perform a hazardous waste determination, 7) improperly disposing of corrosive liquid hazardous waste, and 8) failing to comply with waste disposal requirements and procedures.

<sup>&</sup>lt;sup>1</sup> All citations to the Act will be to the 2010 compiled statutes, unless the provision at issue has been substantively amended in the 2010 compiled statutes.

On May 6, 2011, the People and Rock River 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) (2010)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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 Rockford Register Star on May 27, 2011. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. See 415 ILCS 5/31(c)(2) (2010); 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 Rock River'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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Rock River 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) (2010)), which may mitigate or aggravate the civil penalty amount. Rock River agrees to pay a civil penalty of \$30,000.00. The People and Rock River 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. Rock River must pay a civil penalty of \$30,000.00 no later than August 8, 2011, which is the first business day following the 30th day after the date of this order. Rock River must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name, case number, and Rock River's federal tax identification number must appear on the face of the certified check or money order.
- 3. Rock River 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 Rock River must send a copy of the certified check or money order and any transmittal letter to:

Christopher J. Grant Environmental Bureau Illinois Attorney General's Office 69 W. Washington, Suite 1800 Chicago, IL 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) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
- 5. Rock River must cease and desist from future violations of the Act and Board regulations that were the subject of the complaint.

## 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) (2010); 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 July 7, 2011, by a vote of 5-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board

John T. Sherrian