

ILLINOIS POLLUTION CONTROL BOARD
July 21, 2011

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 11-92
)	(Enforcement – Hazardous Waste)
P & H MFG. CO., an Illinois corporation,)	
)	
Respondent.)	

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

On June 3, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against P & H Mfg. Co. (P & H). The complaint concerns P & H's metal fabrication business at 604 South Lodge Street in Shelbyville, Shelby 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)),¹ 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 P & H violated Section 21(f) of the Act (415 ILCS 5/21(f) (2010)) by allowing the storage of hazardous waste without a permit required by the Resource Conservation and Recovery Act. In addition, the People allege that P & H violated Sections 722.134(a) and 722.134(d) of the Board's Waste Disposal Regulations (35 Ill. Adm. Code 722.134(a),(d)) by failing to label the contents of drums of hazardous waste and the waste's date of accumulation. Finally, the People allege that P & H violated Sections 722.134(c) and 725.273(a) of the Board's Waste Disposal Regulations (35 Ill. Adm. Code 722.134(c) and 725.273(a)) by failing to keep its hazardous waste drums closed during storage, and by failing to label the drums as hazardous waste.

On June 3, 2011, the People and P & H 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 *Shelbyville Daily Union* on June 23, 2011. The Board did not receive any requests for hearing.

¹ 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.

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 P & H'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. P & H admits 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. P & H agrees to pay a civil penalty of \$38,000.00. The People and P & H 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.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. P & H must pay a civil penalty of \$38,000.00 in three installments. The first installment of \$12,000 shall be paid no later than August 22, 2011, which is the first business day following the 30th day after the date of this order. The second installment of \$13,000 shall be paid no later than January 17, 2012, which is the 180th day after the date of this order. The third installment of \$13,000 shall be paid no later than July 21, 2012, which is the 365th day after the date of this order. P & H 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 P & H's federal tax identification number must appear on the face of each certified check or money order.
3. P & H 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

P & H must send a copy of each certified check or money order and any transmittal letter to:

Environmental Bureau
Illinois Attorney General's Office

500 South Second Street
Springfield, IL 62706

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. P & H must cease and desist from future violations of the Environmental Protection 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 21, 2011, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board