ILLINOIS POLLUTION CONTROL BOARD

January 24, 2012 (corrected order)

| PEOPLE OF THE STATE OF ILLINOIS, |) | |
|----------------------------------|---|---------------------|
| |) | |
| Complainant, |) | |
| |) | |
| V. |) | PCB 12-132 |
| |) | (Enforcement -Land) |
| KEHRER BROTHERS CONSTRUCTION |) | |
| INC., an Indiana corporation, |) | |
| |) | |
| Respondent. | | |

ORDER OF THE BOARD (by C.K. Zalewski):

On June 6, 2012, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Kehrer Brothers Construction Inc. (Kehrer). The complaint concerns Kehrer's principal place of business located at 7100 Albers Road, Albers, Clinton County (Site). 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 (2010)), 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 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that Kehrer violated Sections 21(a), (d)(2), (e), (p)(1), (p)(7)(i) and Section 55(a)(1) of the Act (415 ILCS 5/21(a), (d)(2), (e), (p)(1), (p)(7)(i), 55(a)(1) (2010)) and Sections 722.111 and 808.121 of the Board's Waste Disposal Regulations (35 Ill. Adm. Code 722.111, 808.121). The People further allege that Kehrer violated these sections by: 1) causing or allowing the open dumping of waste; 2) disposing of waste at a site that does not meet the requirements of the Act and Board regulations; 3) causing or allowing open dumping of waste in a manner that resulted in both litter and general construction or demolition debris; 4) by failing to make either a hazardous waste determination or a special waste determination for the contents of the 55 gallon drums found on Site; and 5) by causing or allowing the open dumping of used or waste tires.

On January 18, 2013, the People and respondent 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). Under the proposed stipulation, the respondent does not affirmatively admit the alleged violations, but agrees to pay a civil penalty of \$6.000.

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) (2010); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

Chairman T.A. Holbrook abstained. *** correction ***

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 24, 2013 by a vote of 4-0.

John T. Therriault, Assistant Clerk Illinois Pollution Control Board