ILLINOIS POLLUTION CONTROL BOARD March 21, 2013

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 13-38
KERRY ANDERSON, d/b/a BILL'S AUTO REPAIR,)	(Enforcement)
Respondent.)	

OPINION AND ORDER OF THE BOARD (by T.A Holbrook):

On January 18, 2013, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Kerry Anderson, d/b/a Bill's Auto Repair (Bill's Auto Repair). The complaint concerns Bill's Auto Repair's automotive body repair and paint shop at 115 E. College Street, Kewanee, Henry 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)), 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 Bill's Auto Repair violated Sections 21(e), (f), and (i) of the Act (415 ILCS 5/21(e), (f), (i) (2010)) and Sections 703.121(a-b), 722.111, 722.112(c), 722.120(a), 722.123(a), 808.121(a), 808.122, and 809.301 of the Board's Regulations (35 III. Adm. Code 703.121(a-b), 722.111, 722.112(c), 722.120(a), 722.123(a), 808.121(a), 808.122, 809.301). According to the complaint, Bill's Auto Repair violated these provisions by: 1) causing or allowing hazardous waste to be stored at a facility without the necessary Resource Conservation and Recovery Act (RCRA) permits; 2) engaging in an act that produced hazardous waste in the form of still bottoms generated from the Sidewinder Solvent Recovery System; 3) failing to make a hazardous waste and special waste determination of the still bottoms prior to transporting, storing and disposing of the waste; 4) sending the generated waste to facilities that did not have a permit to accept hazardous waste for storage or disposal, and that did not meet the requirements of the Act and the Board's regulations; 5) failing to prepare a manifest prior to the shipment of hazardous or special waste; 6) failing to follow manifest procedures for the transportation of hazardous waste; and 7) not concurrently delivering a manifest to a special waste hauler for shipments of hazardous waste.

On January 18, 2013, simultaneously with the People's complaint, the People and Bill's Auto Repair 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 *Star Courier* on January 30, 2013. 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 Bill's Auto Repair'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. Bill's Auto Repair 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. Bill's Auto Repair agrees to pay a civil penalty of \$6,000. The People and Bill's Auto Repair 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. Kerry Anderson d/b/a Bill's Auto Repair must pay a civil penalty of \$6,000 no later than April 22, 2013, which is the first business day following the 30th day after the date of this order. Bill's Auto Repair 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 Bill's Auto Repair's federal tax identification number must appear on the face of the certified check or money order.
- 3. Bill's Auto Repair 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

Bill's Auto Repair must send a copy of the certified check, money order and any transmittal letter to:

Amanda S. Kimmel Environmental Bureau Illinois Attorney General's Office 500 South Second Street Springfield, Illinois 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. Bill's Auto Repair must cease and desist from future violations of the Act and Board Regulations that were the subject matter 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 T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 21, 2013 by a vote of 5-0.

John T. Therriault, Assistant Clerk

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Illinois Pollution Control Board