ILLINOIS POLLUTION CONTROL BOARD April 18, 2013

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 13-40
)	(Enforcement - Land)
MESSENGER AUTO, INC., d/b/a)	
MESSENGER AUTO & RECYCLING,)	
WILLIAM E. MESSENGER, SR., an)	
individual, and WILLIAM M. MESSENGER,)	
JR., an individual,)	
)	
Respondents.)	

ORDER OF THE BOARD (by J.D. O'Leary):

On February 1, 2013, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Messenger Auto Inc., doing business as "Messenger Auto & Recycling"; William E. Messenger, Sr.; and William M. Messenger, Jr. (respondents). The complaint concerns respondents' discarded tire business at 4613 Walden Road in Byron, Ogle 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 (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 respondents violated Sections 55(a)(4), 55(e), and 55(k)(1) of the Act (415 ILCS 5/55(a)(4), 55(e), 55(k)(1) (2010)) and Section 848.202(b)(4) and (b)(5) of the Board's regulations on management of used and waste tires (35 Ill. Adm. Code 848.202(b)(4), (b)(5)). The complaint alleges that respondents violated these provisions by causing or allowing the storage of used and waste tires for more than 14 days without altering, reprocessing, converting, covering, or otherwise preventing the used and waste tires from accumulating water and by failing to drain accumulations of water from used and waste tires.

On April 9, 2013, the People and respondents 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, respondents admit the alleged violations and agree to pay a civil penalty of \$10,000.

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.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 18, 2013, by a vote of 5-0.

John T. Therriault, Assistant Clerk

Illinois Pollution Control Board