

ILLINOIS POLLUTION CONTROL BOARD

June 6, 2013

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 12-21
)	(Enforcement - Land)
ALTIVITY PACKAGING, LLC,)	
a Delaware limited liability company, INTRA-)	
PLANT MAINTENANCE CORPORATION,)	
an Illinois Corporation, IRONHUSTLER)	
EXCAVATING, INC., an Illinois Corporation,)	
and RON BRIGHT, d/b/a Quarter)	
Construction,)	
)	
Respondent.)	

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

On July 26, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Altivity Packaging LLC (Altivity), Intra-Plant Maintenance Corporation (IPM), Ironhustler Excavating, Inc. (Ironhustler), and Ron Bright (Bright) (collectively, respondents). The complaint concerns the disposal of excavated soil (the Material) from Altivity’s wastewater treatment plant located at 1525 South Second Street, Pekin, Tazewell County. The Material was disposed of at Close Quarry, a sand and gravel pit located at 10513 Levy Road, Hopedale, Tazewell County. In a separate stipulation, the People and Altivity now seek to settle without a hearing.¹ IPM, Ironhustler, and Bright are not parties to this stipulation. For the reasons below, the Board accepts the 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 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 the following provisions in the manner described: (1) Section 21(a) of the Act (415 ILCS 5/21(a) (2010)) by causing or allowing the open dumping of waste; (2) Section 21(e) of the Act (415 ILCS 5/21(e) (2010)) by disposing of waste at a site that does not meet the requirements of the Act and the regulations and the standards promulgated thereunder.

On April 10, 2013, the People and Altivity filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act

¹ In December 2008, before the People filed the Complaint, Altivity merged into Graphic Packaging International, Inc., a Delaware corporation registered to do business in Illinois. As successor-in-interest to Altivity, Graphic Packaging International, Inc. has also agreed to the stipulation and proposal for settlement.

(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 *Pekin Daily Times* on April 24, 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. 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 Altivity'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. Altivity neither admits nor denies the alleged violations, but does agree that material had been disposed of at a site that is not permitted by the Illinois Environmental Protection Agency, and the disposal of the material at a permitted landfill meeting the requirements of the Act and regulations was and is technically practicable. 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. Altivity agrees to pay a civil penalty of \$25,000. The People and Altivity 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. Altivity Packaging, LLC (Altivity) must pay a civil penalty of \$25,000 by July 8, 2013, which is the first business day following the 30th day after the date of this order. Altivity 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 number, case name, and Altivity's federal tax identification number must be included on the certified check or money order.

3. Altivity 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

Altivity must send a copy of the certified check or money order and any transmittal letter to:

Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 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. Altivity 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 T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 6, 2013 by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board