

ILLINOIS POLLUTION CONTROL BOARD  
September 5, 2013

KAPP, INC., an Illinois corporation, )  
)  
Complainant, )  
)  
v. ) PCB 05-196  
) (Citizens Enforcement – Land, Water)  
HARTLEY CARLTON, individually and )  
d/b/a/ ONE HOUR CLEANERS, )  
)  
Respondent. )

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

On May 13, 2005, Kapp, Inc. (Kapp) filed a complaint, pursuant to Section 31(d)(1) of the Environmental Protection Act (Act), against Hartley Carlton, individually and doing business as One Hour Cleaners (Carlton). *See* 415 ILCS 5/31(d)(1)(2012)<sup>1</sup>; 35 Ill. Adm. Code 103.204, 103.212(a). The complaint concerns alleged soil and groundwater pollution resulting from a laundry and dry cleaning business in Decatur, Macon County.

Under the Act, citizens may bring an action before the Board to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2012); 35 Ill. Adm. Code Part 103. In this case, Kapp, the owner of retail property, alleges that Carlton, a tenant at one of Kapp's properties, caused water and land pollution as a result of dry cleaning activities. Count I of the complaint alleges that Carlton violated Section 12(a) of the Act (415 ILCS 5/12(a) (2012)) by causing or threatening or allowing the discharge of contaminants so as to cause or tend to cause water pollution. The complaint also alleges that Carlton violated Section 12(d) of the Act (415 ILCS 5/12(d) (2012)) by depositing contaminants on the land so as to create a water pollution hazard. Kapp further alleges in the complaint that Carlton violated Section 21(e) of the Act (415 ILCS 5/21(e) (2012)) by disposing of waste at the Kapp property, a site that is not a permitted sanitary landfill.

On July, 7, 2005, the Board accepted the complaint for hearing. Kapp, Inc. v. Hartley Carlton, PCB 05-196, slip op. at 1 (July 7, 2005). On August 15, 2013, the parties filed a stipulation and proposed settlement agreement (Stip.), accompanied by a Motion for Relief from Hearing Requirement (Mot.) of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2012)). This filing is authorized by Section 31(d)(2) of the Act (415 ILCS 5/31(d)(2) (2012)).

In part, the stipulation and proposed settlement agreement states that, after respondents completed remedial action under the supervision of the Illinois Environmental Protection Agency's (Illinois EPA) Site Remediation Program, the respondents received a No Further

---

<sup>1</sup> All citations to the Act will be to the 2012 compiled statutes, unless the provision at issue has been substantively amended in the 2012 compiled statutes.

Remediation Letter (“NFR Letter”) for the Site from Illinois EPA on July 11, 2012. Stip. at 4. Respondents filed the NFR letter with the Office of the Recorder of Macon County on July 16, 2012. *Id.* at 5. The parties’ motion for relief provides that the parties have reached an agreement on all outstanding issues in this matter and they agree that a hearing on the stipulation and proposal for settlement is not necessary. Mot. at 1. The Board grants the parties’ request for relief from the hearing requirement. *See* 415 ILCS 5/31(d)(2) (2010); 35 Ill. Adm. Code 103.301(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 respondents’ operations. *Id.* Section 103.302 also requires that the parties stipulate to facts called for in Section 33(c) of the Act. *Id.*, citing 415 ILCS 5/33(c) (2012). The Board finds that the stipulation and proposed settlement agreed to by the parties satisfies Section 103.302. By entering into this stipulation and complying with its terms, Carlton neither admits nor denies the allegations of violations.

The Board accepts the stipulation and proposed settlement. This opinion constitutes the Board’s findings of fact and conclusions of law.

### **ORDER**

The Board accepts and incorporates by reference the stipulation and proposed settlement.

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) (2012); *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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 5, 2013, by a vote of 4-0.



---

John T. Therriault, Clerk  
Illinois Pollution Control Board