ILLINOIS POLLUTION CONTROL BOARD November 7, 2013

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
,)	
v.)	PCB 13-69
)	(Enforcement - Water)
R.A. PETERSON, INC., an Illinois)	
corporation,)	
)	
Respondent.)	

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

On June 14, 2013, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against R.A. Peterson, Inc. (respondent). The complaint concerns respondent's asphalt maintenance services at 750 Lake Cook Road, Buffalo Grove, Lake 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 (2012)), 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 (2012); 35 Ill. Adm. Code 103. In this case, the People allege that respondent violated Sections 12(a) and 12(d) of the Act (415 ILCS 5/12(a) and (d) (2012)), as well as Section 302.203 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 302.203. Respondent allegedly violated these provisions of the Act and the Board's regulations by causing or allowing application of liquid asphalt sealcoating materials to a parking lot without placing any device into the storm sewer inlets to prevent runoff into the waters of the State.

On September 30, 2013, the parties 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) (2012)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2012)), 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 *Pioneer Press* (Northwest) on October 10, 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) (2012); 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 respondent'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) (2012)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Respondent does not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2012)), which may mitigate or aggravate the civil penalty amount. Respondent agrees to pay a civil penalty of \$10,500. The People and respondent 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. R.A. Peterson, Inc. must pay a civil penalty of \$10,500 no later than Monday, December 9, 2013, which is the first business day following the 30th day after the date of this order. R.A. Peterson, Inc. 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 must appear on the face of the certified check or money order.
- 3. R.A. Peterson, Inc. 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

R.A. Peterson, Inc. must send a copy of the certified check or money order and any transmittal letter to:

Robert W. Petti, Assistant Attorney General Illinois Attorney General's Office, Environmental Bureau 69 W. Washington St., Suite 1800 Chicago, IL 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) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
- 5. R.A. Peterson, Inc. shall cease and desist from future violations of the Environmental Protection 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) (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 November 7, 2013 by a vote of 4-0.

John T. Therriault, Clerk

Illinois Pollution Control Board

In T. Therrian