ILLINOIS POLLUTION CONTROL BOARD May 1, 2014

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.))	PCB 14-39 (Enforcement - Water)
BRADLEY PROPERTY, LLC, an Illinois limited liability company, BRADLEY AUTO SPA, LLC, an Illinois limited liability company, and A-K UNDERGROUND, INC., an Illinois corporation,)	(,
Respondents.))	

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

On November 26, 2013, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Bradley Property, LLC (Bradley Property), Bradley Auto Spa, LLC (Bradley Auto Spa), and A-K Underground, Inc. (A-K Underground) (collectively, respondents). The complaint concerns A-K Underground's waste removal services performed at a former oil change and car wash business located at 900 North Kinzie Avenue, Bradley, Kankakee County (site). In a separate stipulation, the People and A-K Underground now seek to settle without a hearing. Bradley Property and Bradley Auto Spa are not parties to this stipulation¹. For the reasons below, the Board accepts the 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 respondents violated Sections 12(a), (d), and (f) of the Act (415 ILCS 5/12(a), (d), and (f) (2012)) and Sections 302.203 and 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 302.203, 309.102(a)) by causing, allowing or threatening the release of contaminants into the waters of the State without a National Pollutant Discharge Elimination System permit. The People alleged that A-K Underground released waste water from the site to a Village of Bradley storm sewer and to a culvert to the east of that location.

On March 14, 2014, the People and A-K Underground filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1)

¹ The case against Bradley Property and Bradley Auto Spa continues; however, notice of a stipulation and proposed settlement as to Bradley Property and Bradley Auto Spa was published on April 10, 2014. Therefore, the Board will allow the public an opportunity to request a hearing.

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 III. 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 *Kankakee Daily Journal* on March 26, 2014. 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 III. 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 A-K Underground'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. A-K Underground does not affirmatively admit to 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. A-K Underground agrees to pay a civil penalty of \$10,000. The People and A-K Underground 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.

<u>ORDER</u>

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. A-K Underground must pay a civil penalty of \$10,000 by June 2, 2014, which is the first business day following the 30th day after the date of this order. A-K Underground 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 must be included on the face of the certified check or money order.
- 3. A-K Underground 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

A-K Underground must send a copy of the certified check or money order and any transmittal letter to:

Nancy J. Tikalsky, Assistant Attorney General Environmental Bureau Illinois Attorney General's Office 69 West 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) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
- 5. A-K Underground 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) (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 May 1, 2014, by a vote of 4-0.

In T. Therian

John T. Therriault, Clerk Illinois Pollution Control Board