

ILLINOIS POLLUTION CONTROL BOARD

December 18, 2014

| | | |
|---|---|-----------------------------|
| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 06-115 |
| |) | (Enforcement - Land, Water) |
| NATIONAL CITY ENVIRONMENTAL, |) | |
| LLC, an Illinois limited liability corporation, |) | |
| and NATIONAL CITY RECYCLING, LLC, |) | |
| an Illinois limited liability corporation, |) | |
| |) | |
| Respondent. |) | |

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

On December 27, 2005, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against National City Environmental, LLC and National City Recycling, LLC (respondents). *See* 415 ILCS 5/31(c)(1) (2012); 35 Ill. Adm. Code 103.204. The complaint concerns respondents' automobile and white goods shredding, recycling, and disposal facility at National City, St. Clair County. 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 on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2012); 35 Ill. Adm. Code 103. In this case, the People alleged the following violations in the December 2005 complaint:

- Count I: By conducting waste-disposal operations without a permit, failing to timely remove waste, failing to install groundwater monitoring wells, and failing to make proper submittals to Illinois EPA, respondents violated Section 21(d)(1) of the Act and Conditions II.14, V.3c, V.3d, V.10, V.12(d), V.14, V.17, and V.21 of Permit 1994-065 LFM (as modified), 415 ILCS 5/21(d)(1) (2012);
- Count II: By failing to submit groundwater sampling data and a groundwater assessment monitoring plan to the Illinois EPA, respondents violated Section 21(d)(1) of the Act and conditions 6.b and 8.b of Permit 1996-293-SP Attachment A, 415 ILCS 5/21(d)(1) (2012);
- Count III: By disposing of waste at an unpermitted site respondents violated Sections 21(d)(2) and 21(e) of the Act, 415 ILCS 5/21(d)(2), (e) (2012);

Count IV: By depositing contaminants upon the land in such a way as to create a water pollution hazard and causing, threatening, or allowing the discharge of contaminants into the environment and into the groundwater so as to cause water pollution and violations of groundwater quality standards, respondents violated Sections 12(a), 12(d), and 21(d)(2) of the Act and Sections 620.405 and 620.410 of the Board's Groundwater Quality Standards, 415 ILCS 12(a), (d), 21(d)(2) (2012), 35 Ill. Adm. Code 620.405, 620.410;

Count V: By causing or allowing the open dumping of waste in a manner that resulted in litter and illegally disposing, storing, or transporting waste, respondents violated Sections 21(a), 21(e), and 21(p)(1) of the Act, 415 ILCS 21(a), (e), (p)(1) (2012).

In the stipulation and proposal for settlement, the parties agreed to include the following, additional alleged violations:

Sections 12(a), 21(d)(1), (d)(2), (e), and (p)(1) of the Act (415 ILCS 5/12(a), 21(d)(1), (d)(2), (e), and (p)(1) (2012)) and Conditions V.6, V.11, V.12, V.14, V.15, V.17, VI.7.a, and VI.9 of Permit 1994-065 LFM, and Conditions 1, 8a, and 8b of Permit 1996-293-SP Attachment A.

On October 21, 2014, the People and the 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) (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 *Belleville News-Democrat* on November 12, 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 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 respondents' 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. Respondents do not affirmatively admit the allegations of violation. 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. Respondents agree to pay a civil penalty of \$75,000. The People and respondents 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. National City Environmental, LLC and National City Recycling, LLC (respondents) must pay a civil penalty of \$75,000 no later than January 19, 2015, which is the first business day following the 30th day after the date of this order. Respondents must pay the civil penalty by certified check or money order made payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name and case number must appear on the face of the certified check or money order.
3. Respondents 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

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

Jamie D. Getz Assistant Attorney General
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) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
5. Respondents must cease and desist from the alleged violations.

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 December 18, 2014 by a vote of 4-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is fluid and cursive, with a long horizontal stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board