

ILLINOIS POLLUTION CONTROL BOARD
May 7, 2015

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 15-165
)	(Enforcement - Land)
TANK'S AUTO BODY L.L.C.,)	
an Illinois limited liability company,)	
)	
Respondent.)	

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

On March 4, 2015, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against Tank's Auto Body, L.L.C. (respondent). The complaint concerns respondent's property located at 113 West Sixth Street, Kewanee, Henry 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 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 allege that respondent violated Sections 21 and 21(f) of the Act (415 ILCS 5/21 and 21(f) (2012)) and Sections 703.121(a) and (b), 721.105(g), 722, 722.111, 722.112(c), 722.120, 722.123(a), 722.134, 722.140(a), 725.131, 808.121, 808.122, and 809.301 of the Board's Waste Disposal Regulations (35 Ill. Adm. Code 703.121(a) and (b), 721.105(g), 722, 722.111, 722.112(c), 722.120, 722.123(a), 722.134, 722.140(a), 725.131, 808.121, 808.122, and 809.301).

The People allege the respondent violated these sections by: storing hazardous waste without a RCRA permit; failing to minimize the possibility of any unplanned sudden or non-sudden release of hazardous waste; generating solid waste without determining if that waste was a hazardous waste; generating waste without determining whether the waste was a special waste; transporting waste for disposal that had not received a United States Environmental Protection Agency (USEPA) identification number; generating hazardous waste and offering that hazardous waste for off-site disposal without having prepared a manifest on the requisite USEPA forms; generating special waste and offering that special waste for off-site disposal without preparing a manifest prior to shipment; generating special waste and delivering the waste for disposal within Illinois without the requisite manifest to a special waste; and disposing of hazardous waste in a dumpster for transportation to a facility that was not permitted for hazardous waste.

On March 4, 2015, simultaneously with the People's complaint, the People and respondent 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 *Henry News Republican* on March 25, 2015. 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 admits 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 \$6,000. 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. Tank's Auto Body, L.L.C. must pay a civil penalty of \$6,000 no later than June 8, 2015, which is the first business day following the 30th day after the date of this order. Respondent 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, and respondent's federal tax identification number must appear on the face of the certified check or money order.
3. Respondent 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

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

Elizabeth Dubats
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

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. Respondent 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 opinion and order on May 7, 2015, by a vote of 5-0.



John T. Therriault, Clerk
Illinois Pollution Control Board