## ILLINOIS POLLUTION CONTROL BOARD April 21, 2016

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)	PCB 16-94
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## ORDER OF THE BOARD (by D. Glosser):

On March 11, 2016, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against The Arnold Engineering Co. (Arnold). The complaint concerns Arnold's magnetic alloys production facility located at 300 North West Street in Marengo, McHenry 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 (2014)), the Attorney General may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2014); 35 Ill. Adm. Code 103. In this case, the People allege that Arnold violated Sections 12(a), 12(b), and 12(f) of the Act, Section 309.102(a) of the Board's water pollution regulations, special condition 2 of Arnold's water pollution control permit, and Sections E.1 and 5 of Arnold's National Pollutant Discharge Elimination System (NPDES) permit. Arnold allegedly violated these sections by (1) threatening, causing or allowing the discharge of process wastewater and storm water into an unnamed drainage ditch, (2) causing or allowing surface discharges of process wastewater and storm water from the site in violation of its water pollution control permit, (3) causing, threatening or allowing the discharge of contaminants from a point source into a water of the State without a NPDES permit, and (4) four storm water pollution prevention plan failures.

On March 11, 2016, simultaneously with the People's complaint, the People and Arnold 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) (2014)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2014)), 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 newspaper notice was published in the *Elgin Courier News* on March 23, 2016. 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) (2014); 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 Arnold'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) (2014)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Arnold 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) (2014)), which may mitigate or aggravate the civil penalty amount. Arnold agrees to pay a civil penalty of \$20,000. The People and Arnold 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. The Arnold Engineering Co. (Arnold) must pay a civil penalty of \$20,000 no later than May 23, 2016, which is the first business day following the 30th day after the date of this order. Arnold 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 and case number must appear on the face of the certified check or money order.
- 3. Arnold 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

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

Kathryn A. Pamenter 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) (2014)) at the rate

set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2014)).

5. Arnold must cease and desist from future violations of the Act and Board regulations that were the subject of this 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) (2014); 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 April 21, 2016 by a vote of 5-0.

John T. Therriault, Clerk

Illinois Pollution Control Board