

ILLINOIS POLLUTION CONTROL BOARD  
May 19, 2016

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 16-96  
) (Enforcement - Water)  
CHEROKEE WELLS SERVICE LLC, an )  
Illinois corporation, )  
)  
Respondent. )

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

On March 16, 2016, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Cherokee Well Service LLC (Cherokee). The complaint concerns a site located at 1532 County Road 1175E, in Carmi, White County. Accompanying the complaint was a stipulation, proposal for settlement, and request for relief from the hearing requirement. The parties therefore 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 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 (2014); 35 Ill. Adm. Code 103. In this case, the People allege that Cherokee violated Sections 12(a) and (d), 21(a), (d)(1) and (2), (e), (p)(1), (4) and (6) of the Act (415 ILCS 5/12(a), (d); 21(a), (d)(1), (2), (e); and (p)(1), (4), (6) (2014)); and Sections 722.111, 808.121(a), and 812.101(a) of the Board’s Solid Waste and Special Waste Hauling Regulations, (35 Ill. Adm. Code 722.111, 808.121(a), 812.101(a)). Cherokee allegedly committed these violations by causing or allowing open dumping, failing to obtain a permit for waste disposal, polluting waters, creating a water pollution hazard, and failing to perform a waste determination.

On March 16, 2016, simultaneously with the People’s complaint, the People and Cherokee 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 Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in *The Carmi Times* on April 15, 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) (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 Cherokee'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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Cherokee admits 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. Cherokee agrees to pay a civil penalty of \$12,500. The People and Cherokee 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. Cherokee Well Service LLC must pay a civil penalty of \$12,500 no later than Monday, June 20, 2016, which is the first business day following the 30th day after the date of this order. Cherokee Well Service LLC 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 Cherokee Well Service's federal tax identification number must appear on the face of the certified check or money order.
3. Cherokee Well Service LLC must submit payment of the civil penalty to:

Illinois Environmental Protection Agency  
Fiscal Services  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

Cherokee Well Service LLC must send a copy of the certified check or money order and any transmittal letter to:

Brian Clappier, Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
500 S. 2nd St.  
Springfield, IL 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) (2014)) at the rate


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

5. Cherokee Well Service LLC must 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) (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 May 19, 2016 by a vote of 5-0.



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John T. Therriault, Clerk  
Illinois Pollution Control Board