ILLINOIS POLLUTION CONTROL BOARD February 20, 2014

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
V.)	PCB 14-60
WILLIAM BLANKENSHIP,))	(Enforcement – Land)
Respondent.)	

OPINION AND ORDER OF THE BOARD (by D. Glosser):

On December 5, 2013, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against William Blankenship (respondent). The complaint concerns respondent's property located at 4010 Moake School Road, Marion, Williamson 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(a), (e), (p)(1), and 55(a)(1), (5), (6), and 55(c) and (e), of the Environmental Protection Act (415 ILCS 5/21(a), (e), (p)(1), 5/55(a)(1), (5), (6), 5/55(c), (e) (2012)). The People further allege that respondent violated Sections 848.202(b)(6), 848.202(c)(1-3), 848.302(a)(1-2), 848.303(a-b), 848.304(a-c), 848.305, and 848.404 of the Board's waste regulations (35 Ill. Adm. Code 848.202(b)(6), 848.202(c)(1-3), 848.302(a)(1-2), 848.303(a-b), 848.304(a-c), 848.305, and 848.404). According to the complaint, respondent violated these provisions by:

- 1) causing or allowing waste tire violations,
- 2) causing or allowing notice and financial violations,
- 3) causing or allowing recordkeeping and reporting violations, and
- 4) causing or allowing open dumping violations.

On December 5, 2013, 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 *Daily Republican* on December 27, 2013. 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. Due to respondent's economic hardship, the parties have agreed that no penalty will be imposed. 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.

<u>ORDER</u>

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. William Blankenship 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 February 20, 2014 by a vote of 4-0.

In T. Therian

John T. Therriault, Clerk Illinois Pollution Control Board

