

ILLINOIS POLLUTION CONTROL BOARD
November 7, 2019

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 2019-51
) (Enforcement - Land)
SE TRANSPORT, INC., a dissolved Illinois)
corporation,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by C. M. Santos):

On August 17, 2018, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against SE Transport, Inc. (SE Transport). The complaint concerns SE Transport's waste transportation service located at 1950 Westgate Dr., Columbia in Monroe, 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 (2018)), 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 (2018); 35 Ill. Adm. Code 103. In this case, the People alleged in Count I that SE Transport violated Section 723.121(a) of the Board Hazardous Waste Operating Regulations (35 Ill. Adm. Code 723.121(a)), and, thereby, Sections 21(e) and 21(g)(2) of the Act (415 ILCS 5/21(e) and (g)(2)(2018)) by failing to deliver shipments of hazardous waste from a generator to the facility designated on the shipment's manifest or other authorized destination. The People further allege in this count that SE Transport violated Section 21(j) of the Act (415 ILCS 5/21(j) (2018)) by storing shipments of special waste at its facility, which was not the designated recipient and not permitted for such storage; by conducting special waste hauling in vehicles not enumerated in its permit and without requesting modification of the permit; and by conducting special waste hauling in violation of the Act and Board regulations.

The People allege in Count II that SE Transport violated Section 703.121(a) and (b) of the Board's Hazardous Waste Operating Regulations (35 Ill. Adm. Code 703.121(a)) and thereby violated Sections 21(f)(1) and (2) of the Act (415 ILCS 5/21(f)(1) and (2) (2018)) by conducting a hazardous waste storage operation and hazardous waste management unit at its facility without a Resource Conservation and Recovery Act (RCRA) permit.

The People allege in Count III that SE Transport violated Sections 725.115(a), 725.131, 725.135, 725.271, 725.273(a), 725.274 and 725.150(a) of the Board's Hazardous Waste Operating Regulations (35 Ill. Adm. Code 725.115(a), 725.131, 725.135, 725.271, 725.273(a), 725.274 and 725.150(a)) and thereby, Sections 21(e) and (f)(2) of the Act (415 ILCS 5/21(e), (f)(2) (2018)) by failing to conduct inspections of the facility where hazardous waste was stored;

failing to maintain its facility so as to minimize the possibility of an unplanned release of the hazardous waste or hazardous waste constituents; failing to maintain aisle space in trailers where hazardous waste was stored; failing to transfer hazardous waste from containers that were in poor condition to containers that were in good condition; storing hazardous waste in a container that was not closed; failing to conduct weekly inspections of area where hazardous waste was stored to look for leaking or deteriorated containers; and storing hazardous waste in drums and boxes that did not have labels and/or accumulation start dates on the container.

The People allege in Count IV that SE Transport violated Sections 725.212(a), 725.242(a) and 725.243 of the Board's Hazardous Waste Operating Regulations (35 Ill. Adm. Code 725.212(a), 725.242(a) and 725.243) and, thereby, Sections 21(e) and (f)(2) of the Act (415 ILCS 5/21(e), 21(f) (2018)) by failing to maintain a written closure plan for its facility; failing to maintain a detailed written estimate of the cost of closing its facility; and failing to maintain documentation of financial assurance for closure of its facility.

On September 9, 2019, the People and SE Transport 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) (2018)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2018)), 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 Monroe County Independent* on October 4, 2019. 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) (2018); 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 SE Transport'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) (2018)), which bears on the reasonableness of the circumstances surrounding the alleged violations. SE Transport 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) (2018)), which may mitigate or aggravate the civil penalty amount. SE Transport agrees to pay a civil penalty of \$400.00 within 30 days after the date of this order. The People and SE Transport 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. SE Transport must pay a civil penalty of \$400.00 no later than December 9, 2019, which is the first business day following the 30th day after the date of this order. SE Transport 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. SE Transport 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

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

Office of the Illinois Attorney General
Attn: Nancy J. Tikalsky, Assistant Attorney General
Environmental Bureau
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
ntikalsky@atg.state.il.us

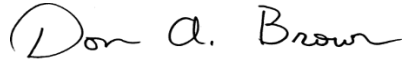
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2018)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2018)).
5. SE Transport must cease and desist from future violations of the 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) (2018); *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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
SE Transport, Inc. Attn: Christine Wilson 601 Hartman Ln. Waterloo, IL 62298 larryewilson59@gmail.com	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Office of the Illinois Attorney General Attn: AAG Nancy J. Tikalsky Environmental Bureau 69 W. Washington Street, Suite 1800 Chicago, Illinois 60602 ntikalsky@atg.state.il.us	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 7, 2019 by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board