

ILLINOIS POLLUTION CONTROL BOARD

July 16, 2020

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 17- 45
)	(Enforcement - Land)
MAGNA TAX SERVICE CO., INC., an)	
Illinois Corporation, and DENNIS)	
BALLINGER, an individual,)	
)	
Respondent.)	

ORDER OF THE BOARD (by A. Palivos):

On February 2, 2017, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Magna Tax Service Co., Inc. (Magna). The complaint concerns Magna's property, the former site of the Young Radiator factory (Site) at 120 North 14th Street in Mattoon, Coles County. On August 22, 2019, the Board accepted the People's ten-count First Amended Complaint, which alleges violations by both Magna and Dennis Ballinger (Ballinger). Magna and Ballinger (Respondents) now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2018)), 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 (2018); 35 Ill. Adm. Code 103. In this case, the People allege that Magna and Ballinger violated the following provisions:

Count I—Magna violated Section 21(a) of the Act (415 ILCS 5/21(a) (2018)) by allowing dark liquid to be consolidated at the Site. Furthermore, Magna also violated Section 21(e) of the Act (415 ILCS 5/21(e) (2018)) by causing or allowing the underground storage tank (UST) to discharge, deposit, spill, or leak waste material into the environment.

Count II—Magna violated Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2018)) and Section 722.111 of the Board's regulations (35 Ill. Adm. Code 722.111) by failing to determine whether the waste released from the UST was a hazardous waste or a special waste.

Count III—Magna violated Section 812.101(a) of the Board's Hazardous Waste Regulations (35 Ill. Adm. Code 812.101(a)) by failing to apply for a waste disposal permit at the Site. By violating the Board's regulations, Magna also violated Section

21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2018)). Furthermore, Magna also violated Section 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2018)) by failing to maintain a waste disposal permit for the Site.

Count IV—Magna violated Section 12(a) of the Act (415 ILCS 5/12(a) (2018)) by causing, threatening, or allowing, the discharge of contaminants in close proximity to groundwater.

Count V—Magna violated Section 12(d) of the Act (415 ILCS 5/12(d) (2018)) by depositing contaminants on the Site in such place and manner so as to create a water pollution hazard.

Count VI—Ballinger violated Section 21(a) of the Act (415 ILCS 5/21(a) (2018)) by causing or allowing dark liquid to be consolidated at the Site. Ballinger also violated Section 21(e) of the Act (415 ILCS 5/21(e) (2018)) by causing or allowing the UST to discharge, deposit, spill or leak waste material into the environment.

Count VII— Ballinger violated Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2018)) and Section 722.111 of the Board's regulations (35 Ill. Adm. Code 722.111) by failing to determine whether the waste released from the UST was a hazardous waste or a special waste.

Count VIII—Ballinger violated Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2018)) by failing to apply for a waste disposal permit for the Site. Ballinger also violated Section 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2018)) by failing to maintain a waste disposal permit for the Site;

Count IX—Ballinger violated Section 12(a) of the Act (415 ILCS 5/12(a) (2018)) by causing, threatening, or allowing a discharge of contaminants in close proximity to groundwater.

Count X—Ballinger violated Section 12(d) of the Act (415 ILCS 5/12(d) (2018)) by depositing contaminants on the Site in such place and manner so as to create a water pollution hazard.

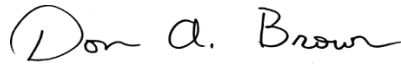
On June 26, 2020, the parties filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2018)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2018)), which requires 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). Under the proposed stipulation, the Respondents do not affirmatively admit the alleged violations and agree to pay a civil penalty of \$3,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely

files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2018); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 16, 2020, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in dark ink and is positioned above a horizontal line.

Don A. Brown, Clerk
Illinois Pollution Control Board