ILLINOIS POLLUTION CONTROL BOARD January 22, 2004

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 03-233 (Enforcement - Water)
GERALD HEWING d/b/a HEWING)	(Emoreement - water)
TECHNICAL SERVICES,)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On June 18, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Gerald Hewing d/b/a Hewing Technical Services (Hewing). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that Hewing violated Sections 9(a) 12(a), and (f) of the Environmental Protection Act (Act) 415 ILCS 5/9 and 12 (2002) and 35 Ill. Adm. Code 302.203 and 304.106. The People further allege that Hewing violated these provisions by allowing septic tank discharge to the waters of the State and by causing or allowing open burning. The complaint concerns Hewing's auto repair facility in Sigel, Shelby County.

On November 24, 2003, the People and Hewing 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) (2002)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)). See 35 III. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the Shelbyville Daily Union on December 15, 2003. 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) (2002); 35 III. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 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 Hewing'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) (2002)). The People and Hewing have satisfied Section 103.302. Hewing admits the alleged violations and agrees to pay a civil penalty of \$2,000. 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. Hewing must pay a civil penalty of \$2,000 in four installments. The first installment of \$500 shall be due on February 23, 2004. The second installment of \$500 shall be due on May 21, 2004. The third installment of \$500 shall be due on August 19, 2004. The fourth installment of \$500 shall be due on November 17, 2004. Hewing must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Hewing's social security number or federal employer identification number must be included on the certified check or money order.
- 3. Hewing must send the certified checks or money orders to:

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

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
- 5. Hewing must cease and desist from the alleged violations.

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) (2002); 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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 22, 2004, by a vote of 5-0.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board