

ILLINOIS POLLUTION CONTROL BOARD
May 15, 2014

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 14-39
) (Enforcement - Water)
BRADLEY PROPERTY, LLC, an Illinois)
Limited liability company, BRADLEY AUTO)
SPA, LLC, an Illinois limited liability)
company, and A-K UNDERGROUND, INC.,)
An Illinois corporation,)
)
Respondents.)

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

On November 26, 2013, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Bradley Property, LLC (Bradley Property), Bradley Auto Spa, LLC (Bradley Auto Spa), and A-K Underground, Inc. (A-K Underground) (collectively, respondents). The complaint concerns A-K Underground’s waste removal services performed at a former oil change and car wash business located at 900 North Kinzie Avenue, Bradley, Kankakee County (site). The People, Bradley Property, and Bradley Auto Spa now seek to settle without a hearing. A-K Underground is not a party to this stipulation.¹ For the reasons below, the Board accepts the 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 to enforce Illinois’ environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2012); 35 Ill. Adm. Code 103. In this case, the People allege that respondents violated Sections 12(a), (d), and (f) of the Act (415 ILCS 5/12(a), (d), and (f) (2012)) and Sections 302.203 and 309.102(a) of the Board’s water pollution regulations (35 Ill. Adm. Code 302.203, 309.102(a)) by causing, allowing or threatening the release of contaminants into the waters of the State without a National Pollutant Discharge Elimination System permit.

On March 19, 2014, the People, Bradley Property, and Bradley Auto Spa 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

¹ On May 1, 2014, the Board accepted a separate stipulation and proposed settlement between the People and A-K Underground.

newspaper notice was published in the *Kankakee Daily Journal* on April 10, 2014. 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. 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 Bradley Property's and Bradley Auto Spa'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. Bradley Property and Bradley Auto Spa do not affirmatively admit 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. Bradley Property and Bradley Auto Spa agree to pay a civil penalty of \$5,300. The People, Bradley Property, and Bradley Auto Spa 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. Bradley Property and Bradley Auto Spa must pay a civil penalty of \$5,300 by June 16, 2014, which is the first business day following the 30th day after the date of this order. Bradley Property and Bradley Auto Spa 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 number and case name must be included on the certified check or money order.
3. Bradley Property and Bradley Auto Spa 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

Bradley Property and Bradley Auto Spa must send a copy of the certified check or money order and any transmittal letter to:

Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau

Office of the Illinois Attorney General
69 West Washington Street, Suite 1800
Chicago, Illinois 60602

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
5. Bradley Property and Bradley Auto Spa 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 May 15, 2014, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board