ILLINOIS POLLUTION CONTROL BOARD September 5, 2002

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
•)	
V.)	PCB 99-193
)	(Enforcement - Land)
The PURDY COMPANY, an Illinois)	
Corporation, and INDIANA HARBOR BELT)	
RAILROAD, an Indiana Corporation,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On June 30, 1999, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against the Purdy Company (Purdy) and Indiana Harbor Belt Railroad (IHB RR). *See* 415 ILCS 5/31(d) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002; 35 Ill. Adm. Code 103.204. The People allege that Purdy and IHB RR violated Sections 21(a), 21(p)(1), and 21(e) of the Environmental Protection Act (Act). 415 ILCS 5/21(a), (21)(p)(1), and 21(e) (1998). The People further allege that Purdy and IHB RR violated these provisions by open dumping, and by causing or allowing litter and waste disposal at an unpermitted site. The complaint concerns respondents' railroad freight car wheel reconditioning operation located at 13830 Brainard Avenue, Burnham, Cook County, on property which respondent Purdy leased from respondent IHR RR, owner of the site.

On July 22, 2002, the People and Purdy and IHB RR 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) (2000) amended by P.A. 92-0574, eff. June 26, 2002). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000) amended by P.A. 92-0574, eff. June 26, 2002). 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 Star Newspaper* on July 28, 2002. 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) (2000) amended by P.A. 92-0574, eff. June 26, 2002; 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 Purdy'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) (2000) *amended by* P.A. 92-0574,

eff. June 26, 2002). The People and Purdy and IHB RR have satisfied Section 103.302. Respondents neither admit nor deny the alleged violations. Respondent Purdy agrees to pay a civil penalty of \$10,000. Respondent IHB RR shall pay no penalty. Notwithstanding, the respondents remain jointly and severally liable for the penalty. 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. Purdy must pay a civil penalty of \$10,000 no later than October 5, 2002, which is the 30th day after the date of this order. Purdy must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and respondent's social security number or federal employer identification number must be included on the certified check or money order.
- 3. Purdy must send the certified check or money order to:

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

4. A copy of the check must be sent to:

Kendra Pohn Assistant Attorney General Environmental Bureau 188 West Randolph Street, 20th Floor Chicago, Illinois 60601

- 5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
- 6. Respondents 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) (2000); 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 September 5, 2002, by a vote of 7-0.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board

Dorothy Th. There