

ILLINOIS POLLUTION CONTROL BOARD
February 15, 2024

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 23-112
) (Enforcement – Land, Water)
INLAND-FRYCEK, INC., an Illinois)
corporation, and 969 NORTHWEST HWY)
LLC, an Illinois limited liability company,)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by J. Van Wie):

On April 17, 2023, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Inland-Frycek, Inc. (IFI) and 969 Northwest Hwy LLC (969 LLC) (together, Respondents). The complaint concerns property owned by 969 LLC that is a former gasoline station located at 969 Northwest Highway in Park Ridge, Cook County (Site). IFI is an environmental remediation consultant and practitioner that assisted in the remediation of residual petroleum contamination at the Site in 2019. In a separate stipulation, the People and 969 LLC now seek to settle without a hearing. IFI is not a party to this stipulation. For the reasons below, the Board accepts the stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2022)), 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 (2022); 35 Ill. Adm. Code 103. In this case, the People allege that Respondents each violated the Act and Board Waste Disposal Regulations as follows:

- Count I: Causing or allowing the open dumping of waste by causing or allowing the dumping and discarding of calcium peroxide at the Site, and failing to remove the waste until compelled to by the Village of Park Ridge’s ordinance enforcement, in violation of Section 21(a) of the Act (415 ILCS 5/21(a) (2022)).
- Count II: Disposing of and abandoning waste at a site not permitted for the disposal of waste in violation of Section 21(e) of the Act (415 ILCS 5/21(e) (2022)).
- Count III: Failing to evaluate or characterize the waste generated on or about July 17, 2019 to determine whether it was special waste in violation of Section

808.121(a) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 808.121(a) and Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2022)).

Count IV: Creating a water pollution hazard by depositing up to 20,000 pounds of powdered calcium peroxide upon the land throughout the Site, failing to immediately remove the calcium peroxide from the ground at the Site, and maintaining a pile of calcium peroxide on the ground at the Site from at least July 17, 2019, to December 4, 2020, in violation of Section 12(d) of the Act (415 ILCS 5/12(d) (2022)).

Count V: Causing and allowing litter by causing or allowing the dumping and discarding of calcium peroxide at the Site, and failing to remove the waste until compelled to by the Village of Park Ridge's ordinance enforcement, in violation of Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2022)).

On May 4, 2023, the Board accepted the complaint for hearing. IFI has since filed a motion to dismiss the complaint against it (IFI Mtn.). The IFI motion is currently pending with the Board.

On December 19, 2023, the People and 969 LLC 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) (2022)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2022)), 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 *Park Ridge Herald-Advocate* on January 11, 2024. 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) (2022); 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 969 LLC'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) (2022)), which bears on the reasonableness of the circumstances surrounding the alleged violations. 969 LLC 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) (2022)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, 969 LLC agrees to pay a civil penalty of \$8,800 within 30 days after the date of this order. The People and 969 LLC 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.¹

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. 969 LLC must pay a civil penalty of \$8,800 no later than March 18, 2024, which is the first business day following the 30th day after the date of this order. 969 LLC 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 certified check or money order.
3. 969 LLC 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

969 LLC must send a copy of the certified check, money order, and any transmittal letter to:

Christopher J. Grant
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington, Suite 1800
Chicago, Illinois 60602
Christopher.Grant@ilag.gov

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2022)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2022)).
5. 969 LLC must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

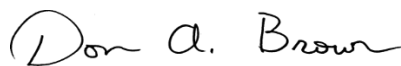
IT IS SO ORDERED.

¹ The case against IFI continues. As the Board today accepts the stipulation and proposed settlement involving the People and 969 LLC, the caption of subsequent orders issued in this docket will not include 969 LLC.

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) (2022); *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
969 Northwest Hwy LLC c/o David E. Schroeder, Esq. Tribler Orpett & Meyer, P.C. 225 W. Washington, Suite 2550 Chicago, Illinois 60606 deschroeder@tribler.com	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 E. Van Buren St., Suite 630 Chicago, Illinois 60605
Christopher J. Grant Senior Assistant Attorney General Illinois Attorney General's Office 69 W. Washington, Suite 1800 Chicago, Illinois 60602 Christopher.Grant@ilag.gov	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 15, 2024, by a vote of 4-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board