## ILLINOIS POLLUTION CONTROL BOARD April 21, 2005

PEOPLE OF THE STATE OF ILLINOIS,	)
Complainant,	)
v.	) PCB 05-64
AUTO RECYCLERS-C & D ENTERPRISES,	) (Enforcement - Land)
INC., an Illinois corporation,	)
Respondent.	)

## OPINION AND ORDER OF THE BOARD (by J.P. Novak):

On October 8, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Auto Recyclers-C & D Enterprises, Inc. (Auto Recyclers). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The complaint concerns Auto Recyclers' automotive salvage facility at 920 East Phillips Street, Springfield, Sangamon County. The parties now seek to settle. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 et seq. (2002)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. See 415 ILCS 5/31 (2002); 35 Ill. Adm. Code 103. In this case, the People allege that Auto Recyclers violated Section 21(a), (d)(2), and (e) of the Act (415 ILCS 5/21(a), (d)(2), and (e) (2002)) and 35 Ill. Adm. Code 722.111; and 808.121 by (1) causing or allowing the open dumping of waste fluids from automobiles; and (2) failing to determine whether contaminated soils from the spillage was a hazardous waste or special waste.

On March 15, 2005, the People and Auto Recyclers 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)), 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 from hearing. The Board published newspaper notice in the *The State Journal-Register* on March 23, 2005. 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 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

Auto Recyclers' 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)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

Auto Recyclers admits the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2002), *as amended by* P.A. 93-575, (eff. Jan. 1, 2004), which may mitigate or aggravate the civil penalty amount. Auto Recyclers agrees to pay a civil penalty of \$5,000.

The People and Auto Recyclers 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. Auto Recyclers must pay a civil penalty of \$5,000 no later than May 23, 2005, which is the first business day after the 30th day after the date of this order. Auto Recyclers must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Environmental Protection Trust Fund. The case number, case name, and Auto Recyclers' social security number or federal employer identification number must be included on the certified check or money order.
- 3. Auto Recyclers 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. Auto Recyclers must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following person at the indicated address:

Jennifer Bonkowski Assistant Attorney General Environmental Bureau 500 South Second Street Springfield, Illinois 62794-9276

- 5. 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)).
- 6. Auto Recyclers 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 April 21, 2005, by a vote of 5-0.

Dorothy M. Gunn, Clerk

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