

ILLINOIS POLLUTION CONTROL BOARD  
August 19, 2004

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 03-223
	)	(Enforcement – Land, Air)
ELYSIUM ENERGY, an Illinois limited	)	
liability corporation,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On June 9, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Elysium Energy, an Illinois limited liability corporation (Elysium). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The complaint concerns Elysium’s operating oil field maintenance facility 0.4 miles west of the intersection of Routes 130 and 25, about three-quarters of a mile west of West Liberty and 9.5 miles south of Newton, Jasper County. On June 30, 2004, the People and Elysium filed a stipulation and proposed settlement. 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 Elysium violated Sections 9(a) and (c); 21(a), (e), (o)(4), (p)(1), (p)(3), and (p)(6); and 55(a)(1) and (a)(2) of the Act (415 ILCS 5/9(a) and (c); 21(a), (e), (o)(4), (p)(1), (p)(3), and (p)(6); and 55(a)(1) and (a)(2) (2002)) and 35 Ill. Adm. Code 722.111 and 808.121(a). The People allege that Elysium violated these provisions by causing or allowing the consolidation and crushing of approximately 20 drums of special waste; the consolidation and burning of wood, metal, and waste tires; the placement of a roll-off container of waste and a bucket leaking a liquid substance; and the existence and accumulation of drums containing crankcase oil at its facility.

On June 30, 2004, the People and Elysium 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). These filings are authorized by Section 31(c)(2) of the Act. 415 ILCS 5/31(c)(2) (2002). *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Elysium does not admit to the violations alleged in the complaint, but agrees to pay a civil penalty of \$25,000.

The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Newton Press-Mentor* newspaper on

July 15, 2004. 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 the respondents' 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.

As previously stated, Elysium does not admit to the violations alleged in the complaint, but agrees to pay a civil penalty of \$25,000. 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.

The People and the respondents 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. Elysium Energy, an Illinois limited liability corporation (Elysium) must pay a civil penalty of \$25,000 no later than September 20, 2004, which is the 30th day after the date of this order. Elysium must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Elysium's federal employer identification number must be included on the certified check or money order.
3. Elysium must send its certified check or money order to:  

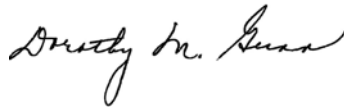
Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).

5. Elysium 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 5/31(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 August 19, 2004, by a vote of 4-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board