

ILLINOIS POLLUTION CONTROL BOARD
September 7, 2006

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 04-107
)	(Enforcement - Land)
PETER BABANIOTIS, an individual,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by A.S. Moore):

On December 29, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Peter Babaniotis. *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The People allege that Babaniotis violated sections 12(a), 12(d), and 12(f)(2) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), 12(d), and 12(f)(2) (2004)) and sections 302.203, 302.208(g), 302.212(a), 731.164(a), 731.164(b), 731.164(d), 731.165(b), and 731.166(a) of the Board’s regulations (35 Ill. Adm. Code 302.203, 302.208(g), 302.212(a), 731.164(a), 731.164(b), 731.164(d), 731.165(b), and 731.166(a)). The People further allege that Babaniotis violated these provisions by causing or allowing soil and groundwater to become contaminated with gasoline released from underground storage tanks and in turn not addressing the contamination, resulting in water pollution and a continuing water pollution hazard. The complaint concerns Babaniotis’ former gasoline station, which is located at 101 E. Jefferson Street, in Shorewood, Will County.

On July 24, 2006, the People and Babaniotis 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) (2004)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)). *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 Herald News* of Joliet on July 28, 2006. 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) (2004); 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 Babaniotis’ 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) (2004)). The People and Babaniotis have satisfied Section 103.302. Under the proposed stipulation, Babaniotis does not affirmatively admit the alleged violations and agrees to pay a civil penalty of \$19,125. Babaniotis also agrees to submit to the Illinois Environmental Protection Agency (Agency) within 60 days of the date of a Board order accepting this proposed settlement a revised Corrective Action Completion Report

(CACR) addressing each deficiency in the 2003 CACR outlined in the Agency's October 22, 2003 letter rejecting that CACR. The proposed settlement also provides for stipulated penalties in the event that Babaniotis fails to complete any activity or fails to comply on a timely basis with the requirements of the revised CACR. 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. Peter Babaniotis must pay a civil penalty of \$19,125 no later than Monday, October 9, 2006, which is the first business day after the 30th day after the date of this order. Babaniotis must pay the civil penalty by certified check, money order, or electronic funds transfer payable to the Illinois Environmental Protection Agency and designated to the Illinois Environmental Protection Trust Fund. The case number, case name, and Babaniotis' social security number must be included on the certified check or money order.
3. On or before Monday, November 6, 2006, the 60th day after the date of this order, Babaniotis must submit to the Agency a revised Corrective Action Completion Report (CACR) addressing each deficiency in his 2003 CACR, as outlined in the Agency's October 22, 2003 letter rejecting that CACR.
4. Babaniotis 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

5. Babaniotis must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following persons:

RoseMarie Cazeau, Chief
Environmental Bureau
Assistant Attorney General
188 W. Randolph Street, 20th Floor
Chicago, ILL 60601

James Kropid
Assistant Counsel
Illinois Environmental Protection Agency

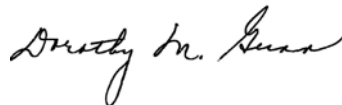
1021 N. Grand Ave. E.
P.O. Box 19276
Springfield, IL 62794-9276.

6. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
7. Babaniotis 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) (2004); *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 7, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board