

ILLINOIS POLLUTION CONTROL BOARD

February 17, 2011

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 05-117
)	(Enforcement – Land, Cost Recovery)
CITY OF CAIRO,)	
)	
Respondent.)	

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

On December 22, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against the City of Cairo (City). The complaint concerns the removal of alleged used and waste tires from two sites owned by the City. Both sites are located in the City of Cairo, Alexander County: one at Second and Ohio Streets; the other at 105 Sixth Street. With the Board's leave, the People filed an amended complaint on March 7, 2005, to correct a typographical error. The parties now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), 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 (2008); 35 Ill. Adm. Code 103. In count I of the amended complaint, the People allege that the City removed used and waste tires from an individual's warehouse site in the City of Cairo to a property owned by the City and located at Second and Ohio Streets. The amended complaint states that the Illinois Environmental Protection Agency (Agency) issued a notice to the City, pursuant to Section 55.3(d) of the Act (415 ILCS 5/55.3(d) (2008)), directing the City to remove the tires from the City's property at Second and Ohio Streets. The People allege that the City failed without sufficient cause to perform the preventative or corrective action required under the notice. According to the amended complaint, the Agency's tire removal contractor then removed approximately 191.17 tons of used and waste tires from the Second and Ohio Streets site at a cost of \$35,170.75. In count II of the complaint, the People allege that the City removed used and waste tires from the same warehouse site to a property owned by the City and located at 105 Sixth Street. The complaint states that the Agency issued a notice to the City, pursuant to Section 55.3(d) of the Act (415 ILCS 5/55.3(d) (2008)), directing the City to remove the tires from the City's property at 105 Sixth Street. The People allege that the City failed without sufficient cause to perform the preventative or corrective action required under the notice. According to the complaint, the Agency's tire removal contractor then removed approximately 75 tons of used and waste tires from the 105 Sixth Street site at a cost of \$14,970.50. Through the amended complaint, the People seek to recover the cleanup costs expended by the State and punitive damages, as well as costs and reasonable attorney fees.

On February 8, 2011, the People and the City 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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). Under the proposed stipulation, the City does not affirmatively admit the alleged liability but agrees to pay a civil penalty of \$2,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2008); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 17, 2011, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board