

ILLINOIS POLLUTION CONTROL BOARD
November 17, 2011

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| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 12-43 |
| |) | (Enforcement - Land) |
| FORBO ADHESIVES, LLC, a Delaware |) | |
| Limited Liability Corporation, |) | |
| |) | |
| Respondent. |) | |

OPINION AND ORDER OF THE BOARD (by T. A. Holbrook):

On August 31, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a seven-count complaint against Forbo Adhesives, LLC (Forbo). The complaint concerns Forbo's polyurethane manufacturing facility located at 6352 E. Collins Road, Morris, Grundy County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), 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 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that Forbo violated the following provisions: Section 21(f)(1) of the Act (415 ILCS 5/21(f)(1) (2010)) and Sections 703.121(a) and (b) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 703.121(a), (b)) by failing to obtain a RCRA permit for the facility; Section 21(f)(2) of the Act (415 ILCS 5/21(f)(2) (2010)) by violating Sections 703.121(a) and (b) of the Board's Waste Disposal Regulations (35 Ill. Adm. Code 703.121(a) and (b)); Section 722.134(b) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 722.134(b)) by storing hazardous waste at the Facility exceeding the 90 day time period; Section 21 (f)(2) of the Act (415 ILCS 5/21 (f)(2) (2010)) by violating Section 722.134(b) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 722.134(b)); Section 725.113(b) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.113(b)) by failing to develop a written waste analysis plan that describes the procedures that it would carry out to comply with Section 725.113(a) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.113 (a)); Section 725.114(c) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.114(c)) by failing to control unauthorized access or post signs with the legend, "Danger - Unauthorized Personnel Keep Out" at appropriate locations at the Facility; Section 725.115(c) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.115(c)) by failing to develop and follow a written schedule for inspecting the appropriate equipment and devices; Section 21(f)(2) of the Act (415 ILCS 5/21 (f)(2) (2010)) by violating Sections 725.113(b), 725.114(c) and 725.115(b) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.113(b), 725.114(c) and 725.115(b)); Section 725.135 of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.135) by failing to maintain aisle space to allow the unobstructed movement of emergency

personnel and equipment; Section 725.274 of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.274) by failing to inspect areas where containers are stored for leaks and deterioration on a weekly basis; Section 21 (f)(2) of the Act (415 ILCS 5/21(f)(2) (2010)) by violating Sections 725.135 and 725.274 of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.135 and 725.274); Sections 725.152(d) and (t) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.152(d), (t)) by failing to maintain an up to date list of emergency coordinators and include information on evacuation procedures in its contingency plan; Sections 725.153(b) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.153(b)) by failing to submit a copy of its contingency plan to emergency response agencies that may be called upon to provide emergency services at the Facility; Section 21(f)(2) of the Act (415 ILCS 5/21 (f)(2) (2010)) by violating Sections 725.152(d) and (f) and 725.153(b) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.152(d), (f) and 725.153(b)); Section 725.173 of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.173) by failing to maintain a written operating record at the Facility detailing the required information; Section 725.175 of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.175) by failing to submit an annual report; Section 21(f)(2) of the Act (415 ILCS 5/21 (f)(2) (2010)) by violating Sections 725.173 and 725.175 of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.173 and 725.175); Section 725.212(a) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.212(a)), by failing to have a written closure plan; Section 725.218(a) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.218(a)) by failing to have a written post-closure plan; Section 725.242(a) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.242(a)) by failing to have a written estimate of closure costs; Section 725.244(a) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.244(a)) by failing to have a written estimate of the annual cost of post-closure care activities; and Section 21(f)(2) of the Act (415 ILCS 5/21 (f)(2) (2010)) by violating Sections 725.212(a), 725.218(a), 725.242(a), and 725.244(a) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 725.212(a), 725.218(a), 725.242(a), and 725.244(a)).

On August 31, 2011, the People and Forbo 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) (2010)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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 *Morris Dailey Herald* on October 4, 2011. 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) (2010); 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 Forbo'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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Forbo 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) (2010)), which may mitigate or aggravate the civil penalty amount. Forbo agrees to pay a civil penalty of \$44,403. The People and Forbo 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. Forbo Adhesives, LLC (Forbo) must pay a civil penalty of \$44,403 no later than December 19, 2011, which is the first business day following the 30th day after the date of this order. Forbo 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, case number, and Forbo's federal tax identification number must appear on the face of the certified check or money order.
3. Forbo 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

Forbo must send a copy of the certified check or money order and any transmittal letter to:

Jennifer A. Van Wie
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
5. Forbo 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.

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) (2010); *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, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 17, 2011, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board