ILLINOIS POLLUTION CONTROL BOARD April 5, 2012

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.) PCB 12-27	and)
INDUSTRIAL ENCLOSURE CORPORATION, an Illinois corporation,) (Enforcement - L)	anu)
Respondent.)	

ORDER OF THE BOARD (by D. Glosser):

On August 16, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a seven-count complaint against Industrial Enclosure Corporation (Respondent). The complaint concerns Respondent's steel and aluminum box manufacturing facility located at 619 N. Loucks in Aurora, Kane 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 to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that Respondent violated Sections 21(f)(1) and (2) of the Act (415 ILCS 5/21(f)(1) and 21(f)(2) (2010)), and Sections 703.121(a)(1), 722.120(a), 722.120(b), 722.140(b), 722.111(a) and (b), 808.121(a), and 808.121(b)(3) of the Board's rules (35 Ill. Adm. Code 703.121(a)(1), 722.120(a), 722.120(b), 722.140(b), 722.111(a), 722.111(b), 808.121(a), and 808.121(b)(3)). The People allege that Respondent violated these provisions by conducting a hazardous waste management facility without a RCRA permit and by failing to comply with RCRA regulations adopted by this Board. More specifically, the People allege that as a generator under RCRA, Respondent failed to properly prepare a manifest for the hazardous waste; Respondent failed to properly designate one receiving facility on the manifest; Respondent failed to keep a copy of annual reports and exception reports for at least three years; and Respondent failed to properly categorize and label hazardous and special wastes.

On February 6, 2012, the People and Respondent 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 *Aurora Beacon-News* on February 21, 2012. 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 Respondent'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. Respondent neither admits nor denies 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. Respondent agrees to pay a civil penalty of \$7,500.00. The People and Respondent 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. Respondent must pay a civil penalty of \$7,500.00 no later than May 7, 2012, which is the first business day following the 30th day after the date of this order. Respondent 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 and case number must appear on the face of the certified check or money order.
- 3. Respondent 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

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

Zemeheret Bereket-Ab Assistant Attorney General Environmental Bureau Illinois Attorney General's Office 69 West 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. Respondent must at all times operate in full compliance with requirements of the Act and the Board's Waste Disposal Regulations.

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 order on April 5, 2012, by a vote of 5-0.

John T. Therriault, Assistant Clerk Illinois Pollution Control Board

John T. Therrian