

ILLINOIS POLLUTION CONTROL BOARD
June 7, 2012

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 12-123
) (Enforcement - Land)
ROXANA LANDFILL, INC., an Illinois)
corporation, MIDWEST SANITARY)
SERVICE, INC., an Illinois corporation, WRB)
REFINING, LP, a Delaware limited)
partnership, and CONOCOPHILLIPS)
COMPANY, a Delaware corporation,)
)
Respondents.)

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

On April 23, 2012, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a ten-count complaint against Roxana Landfill, Inc. (Roxana), Midwest Sanitary Service, Inc. (Midwest), WRB Refining, LP (WRB), and ConocoPhillips Company (Conoco). The complaint concerns the transportation of alleged hazardous waste from the ConocoPhillips-Wood River Refinery (COP Refinery), which is located at 900 South Central Avenue in Roxana, Madison County, to the Roxana Landfill, which is located at 4601 Cahokia Road in Roxana, Madison County. Accompanying the complaint were two separate stipulations and proposals for settlement. In one stipulation, the People and Midwest seek to settle without a hearing. In the other stipulation, the People, WRB, and Conoco seek to settle without a hearing. Roxana is not a party to either stipulation. For the reasons below, the Board accepts both stipulations and proposed settlements.

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 in counts VI and VII of the complaint that Midwest violated Sections 21(e) and (g) of the Act (415 ILCS 5/21(e), (g) (2010)) and Sections 723.120(a) and 809.302(b) of the Board's waste disposal regulations (35 Ill. Adm. Code 723.120(a), 809.302(b)) by transporting hazardous waste for disposal, treatment, or storage at Roxana Landfill, and by accepting oil-water separator sludge from WRB without a manifest for such hazardous waste. In counts VIII through X of the complaint, the People allege that WRB and Conoco violated Section 21(e) of the Act (415 ILCS 5/21(e) (2010)), as well as Sections 728.138(a) and 808.121(c) of the Board's waste disposal regulations (35 Ill. Adm. Code 728.138(a), 808.121(c)), by disposing of hazardous oil-water separator sludge at Roxana Landfill, and by causing, threatening, or allowing the disposal of special waste at Roxana Landfill.

On April 23, 2012, the People and Midwest 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)). Also on April 23, 2012, the People, WRB, and Conoco 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)). These filings are 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 stipulations, proposed settlements, and requests for relief. The newspaper notice was published in *The Telegraph* on May 7, 2012. The Board did not receive any requests for hearing. The Board grants the requests 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 the operations of Midwest, WRB, and Conoco. 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. Under the proposed settlement between the People and Midwest, the violations alleged in counts VI and VII of the complaint are not affirmatively admitted to by Midwest. Under the proposed settlement between the People and both WRB and Conoco, the violations alleged in counts VIII through X of the complaint are not affirmatively admitted to by WRB or Conoco. The stipulations also address the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2010)), which may mitigate or aggravate the civil penalty amount. Midwest agrees to pay a civil penalty of \$8,000. In addition, Midwest agrees to undertake a supplemental environmental project (SEP) consisting of providing the State of Illinois with specified hauling and disposal services having a settlement value of \$8,000. WRB and Conoco agree to jointly pay a civil penalty of \$14,750. The parties have satisfied Section 103.302. The Board accepts both stipulations and proposed settlements.

This opinion constitutes the Board's findings of fact and conclusions of law.¹

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement involving the People and Midwest, in addition to the stipulation and proposed settlement involving the People, WRB, and Conoco.

¹ The People's case against Roxana continues. Counts I through V of the complaint concern Roxana. As the Board today accepts the stipulation and proposed settlement involving the People and Midwest, along with the stipulation and proposed settlement involving the People, WRB, and Conoco, the caption of subsequent orders issued in this docket will not include Midwest, WRB, or Conoco.

2. No later than July 9, 2012, which is the first business day following the 30th day after the date of this order, Midwest must pay a civil penalty of \$8,000 and WRB and Conoco must jointly pay a civil penalty of \$14,750. Midwest, WRB, and Conoco must pay the applicable 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 the federal tax identification numbers of Midwest, WRB, and Conoco must appear on the face of the respective certified checks or money orders.
3. Midwest, WRB, and Conoco must submit payment of the applicable civil penalty to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Midwest, WRB, and Conoco must send a copy of the respective certified checks or money orders and any corresponding transmittal letter to:

Rachel R. Medina
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

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. Midwest, WRB, and Conoco 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.

Chairman T.A. Holbrook abstained.

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 June 7, 2012 by a vote of 4-0.

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

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board