

ILLINOIS POLLUTION CONTROL BOARD
March 14, 2019

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 19-52
)	(Enforcement - Land)
VELOCITY SERVICES, LLC, an Illinois)	
limited liability company,)	
)	
Respondent.)	

ORDER OF THE BOARD (by K. Papadimitriou):

On August 17, 2018, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint (Comp.) against Velocity Services, LLC (Velocity). The complaint concerns Velocity's coal tar storage terminal at 1450 Edwardsville Rd., Granite City, Madison 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 (2016)), 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 (2016); 35 Ill. Adm. Code 103. In this case, the People allege that Velocity violated Sections 21(e) of the Act¹ (415 ILCS 5/21(e) (2016)); and Sections 722.120(a), 722.142(a)(2), 808.121(b), 808.121(c), 808.122, and 809.501(d) of the Board's waste disposal regulations (35 Ill. Adm. Code 722.120(a), 722.142(a)(2), 808.121(b), 808.121(c), 808.122, 809.501(d)).

The People allege that Velocity committed these violations by failing to submit an Exception Report; failing to include Hazardous Waste Report Management Method Codes on manifests for shipments of hazardous waste; delivering special waste to a hauler that hauled the waste in vehicles not listed on its permit; designating on a manifest a site not permitted to receive special waste for disposal, treatment, or storage as the final destination; and delivering special waste to a hauler with manifests designating facilities not permitted to receive special waste, which then resulted in the hauler storing the waste at its own unpermitted facility.

¹In count I of the complaint the People also allege violation of Sec. 21(f)(2) of the Act (415 ILCS 5/21(f)(2) (2016)). Comp. at 7 ¶33. However, the People do not include this provision in their request to find violations of the Act under count I (*see* Comp. at 8), nor mention this provision anywhere else in the complaint. This provision of the Act is also not cited in the stipulation and proposed settlement. *See e.g.* Stip. at 2. Because the People do not request the Board to find violation of this provision, the Board does not address it in this order.

On October 30, 2018, the People and Velocity filed a stipulation and proposed settlement (Stip.), accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2016)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2016)), 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 *Edwardsville Intelligencer* on February 9, 2019. 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 Velocity'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) (2016)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Velocity 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) (2016)), which may mitigate or aggravate the civil penalty amount.

Velocity agrees to pay a civil penalty of \$5,000 and perform a supplemental environmental project (SEP) of purchasing and delivering two self-contained breathing apparatus for the Wood River Illinois Emergency Response Unit, at a total cost of no less than \$8,000. The parties to the stipulation agreed that Velocity must complete the SEP by November 1, 2018, and within 30 days thereafter, must submit a project completion report that includes a summary of all expenditures. Stip. at 9. The parties also request that the Board adopt and accept the stipulation as written. *Id.* at 12. The Board, however, notes that SEP completion date precedes this order. Since that date has passed, the Board will order Velocity to complete the SEP, if it has not been completed, by April 15, 2019, which is the first business day following the 30th day after the date of this order.

The People and Velocity 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. Velocity must pay a civil penalty of \$5,000 by April 15, 2019, which is the first business day following the 30th day after the date of this order. Velocity must pay the civil penalty by certified check, 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. Velocity must also perform a supplemental environmental project (SEP) as agreed in the stipulation and proposed settlement, but not later than April 15, 2019, which is the first business day following the 30th day after the date of this order. The SEP includes purchasing and delivering to the Wood River Illinois Emergency Response Unit two self-contained breathing apparatus at a total cost of no less than \$8,000. Velocity must pay the settlement value of the SEP as agreed in the stipulation and proposed settlement in the event the SEP cannot be completed.
4. Velocity must submit payment of the civil penalty by first class mail to:

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

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

Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2016)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2016)).
6. Velocity must cease and desist from future violations of the Environmental Protection Act and Board regulations and Velocity's permit under the Resource Conservation and Recovery Act ("RCRA Permit") that were the subject of the complaint.
7. Velocity must operate its coal tar storage terminal as agreed in the stipulation and in compliance with all the terms and conditions of its RCRA Permit.

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) (2016); *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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
People of The State of Illinois Attn: Nancy J. Tikalsky Assistant Attorney General Environmental Bureau 69 W. Washington Street, 18th Floor Chicago, Illinois 60602 (312) 814-8567 ntikalsky@atg.state.il.us	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Velocity Services, LLC Attn: William Champion Plant Manager 1450 Edwardsville Road Granite City, IL 62040 bchampion1450@gmail.com	

IT IS SO ORDERED.

Board Member Zalewski abstained.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 14, 2019 by a vote of 4-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board