

ILLINOIS POLLUTION CONTROL BOARD  
February 4, 2021

PEOPLE OF THE STATE OF ILLINOIS	)	
by KWAME RAOUL, Attorney	)	
General of the State of Illinois,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 21-27
	)	(Enforcement – Land)
SURFACE MAINTENANCE SERVICES,	)	
INC., an Illinois corporation,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by J. Van Wie):

On September 29, 2020, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Surface Maintenance Services, Inc. (Surface). The complaint concerns a cleaning and painting facility owned and operated by Surface located at 420 Buckbee Street in Rockford, Winnebago County, Illinois (Facility). For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2018)), 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 (2018); 35 Ill. Adm. Code 103. In this case, the People allege that Surface violated:

1. Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2018), and Sections 703.121(a) and (b) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a) and (b), by conducting a hazardous waste storage operation without a Resource Conservation and Recovery Act (RCRA) permit.
2. Section 21(e) of the Act, 415 ILCS 5/21(e) (2018), by storing hazardous waste at a facility that does not meet the requirements of the Act.

On December 16, 2020, the People and Surface filed a stipulation and proposal for 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) (2018)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2018)), 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 newspaper notice was published in the *Rockford Register Star* on January 9, 2021. 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) (2018); 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 Surface'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) (2018)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Surface does not admit or deny the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2018)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, Surface agrees to pay a civil penalty of \$11,750.00 within 30 days after the date of this order. The People and Surface 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. Surface must pay a civil penalty of \$11,725.00 no later than March 8, 2021, which is the first business day following the 30th day after the date of this order. Surface 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 ("EPTF"). The case name and case number must appear on the face of the certified check or money order.
3. Surface 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

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

Kevin J. Garstka  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

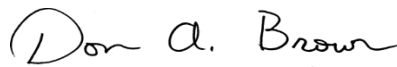
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2018)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2018)).
5. Surface must cease and desist from future violations 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) (2018); *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.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
Illinois Attorney General’s Office Environmental Bureau Attn: Kevin J. Garstka 69 W. Washington Street, Suite 1800 Chicago, Illinois 60602 Primary: kgarstka@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
Charles D. Schlueter 4023 Charles Street Rockford, IL 61108	
Bryan G. Selander Attorney at Law P.O. Box 1835 Rockford, IL 61110-0335 bselander@gmail.com	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 4, 2021, by a vote of 4-0.



Don A. Brown, Clerk  
 Illinois Pollution Control Board