

ILLINOIS POLLUTION CONTROL BOARD

October 1, 2020

PEOPLE OF THE STATE OF ILLINOIS,)
Complainant,)
)
v.) PCB 21-011
) (Enforcement - Air)
BENEDICTINE UNIVERSITY, an Illinois)
not-for-profit corporation,)
Respondent.)
)

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

On August 17, 2020, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against Benedictine University (Benedictine). The complaint concerns Benedictine’s boiler plant at its university located at 5700 College Road in Lisle, DuPage County. Accompanying the complaint was a stipulation, proposal for settlement, and request for relief from the hearing requirement. The parties therefore seek to settle the complaint without a hearing. For the reasons below, the Board accepts the complaint and directs the Clerk to provide public notice of the stipulation, proposed settlement, and request for hearing relief.

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 Benedictine violated Section 9(a) of the Environmental Protection Act, 415 ILCS 5.9(a) (2018); Section 201.302(a) of the Board’s air pollution regulations, 35 Ill. Adm. Code 201.302(a), and Sections 254.132(a) and 254.137(a) of the Illinois Environmental Protection Agency’s air pollution regulations, 35 Ill. Adm. Code 254.132(a), 254.137(a), by failing to submit timely Annual Emissions Reports for calendar years 2018 and 2019.

On August 17, 2020, simultaneously with the People’s complaint, the People and Benedictine 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) (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 Board provided notice of the stipulation, proposal for settlement, and request for relief. The newspaper notice was published in the *Suburban Life* on September 3, 2020. 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. 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 Benedictine'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. Benedictine admits 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 stipulation, Benedictine agrees to pay a civil penalty of \$3,000 within 30 days after the date of this order. The People and Benedictine have satisfied Section 103.302. The Board accepts the stipulation and proposal for 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 proposal for settlement.
2. Benedictine must pay a civil penalty of \$3,000 by November 2, 2020, which is the first business day following the 30th day after the date of this order. Benedictine must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency (Illinois EPA) for deposit into the Environmental Protection Trust Fund. The case number and case name must appear on the face of the certified check or money order.
3. Benedictine 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

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

Elizabeth Dubats
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) (2018)) at the rate

set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2018)).

5. Benedictine must timely submit complete and accurate AERS in the future.
6. Benedictine must cease and desist from future violations of the Environmental Protection Act, Board regulations and Illinois EPA 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.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 1, 2020, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board