

On December 30, 2021, the parties filed an “Agreed First Modification to Stipulation and Proposal for Settlement” (Mod.), accompanied by a motion (Mot.) for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2020)). The motion is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2020)), 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 motion for relief from the hearing requirement states that the parties have agreed “to modify the future compliance activities completion dates enumerated in the Stipulation.” Mot. at 1; *see* Modif. at 1. In their agreed modification, the parties first propose to revise Section V.D, Future Compliance. Under subsection (1) entitled “South Farm,” the parties proposed revising subsections (c) and (d) and adding subsection (e) as follows:

- (c) By January 1, ~~2023~~2022, Respondent shall complete the dewatering and removal of all manure sludge and solids from the South Lagoon and the North Lagoon on the South Farm per Illinois EPA oversight and approval as follows:
 - i) Beginning as of the date the Board adopts and accepts this Stipulation, Respondent shall provide monthly written and photographic documentation of its progress to the Illinois EPA, within 10 days of the end of each month; and
 - ii) at least two (2) weeks prior to sludge removal, Respondent shall notify the Illinois EPA of sludge removal; and
- (d) By February 1, ~~2023~~2022, Respondent shall submit a final report, including a written description and photographic evidence, to the Illinois EPA that demonstrates Respondent has completed the activities required by paragraph V.D.2.c.
- (e) In the alternative, by February 1, 2023, Respondent may submit to the Illinois EPA a site evaluation report for one or both lagoons that provides an estimate of the total amount of nitrogen remaining in the manure sludge and that evaluates the potential for causing an exceedance of the Class II groundwater quality standard of 100mg/L of nitrate (35 Ill. Admin. Code 620.420(a)(1)). The sampling and calculations for the site evaluation report must be conducted by a qualified third party. The site evaluation report must include analyses of at least four representative samples from each lagoon being evaluated for the following nitrogen parameters: ammonia, organic nitrogen, TKN, and nitrate/nitrite. Upon receipt of a site evaluation report, the Illinois EPA will review the document. If the Illinois EPA concurs that the site evaluation report demonstrates that a pollution threat to groundwater is no longer present, Illinois EPA will issue a written determination to the Respondent that no further sludge removal is required for the subject lagoon(s). Modif. at 2.

The parties also propose to revise Section V.F entitled “Correspondence, Reports, and Other Documents” by adding contact information for the representative of the respondent. Modif. at 2. The parties state that, “[e]xcept as modified herein, all of the other provisions of the Stipulation remain in full force and effect.” Modif. at 3.

Unless the Board determines that a hearing is needed, the Board must cause notice of the proposed modification of the stipulation and proposed settlement and the motion for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days. If anyone timely files a written demand for hearing, the Board will deny the parties’ request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2018); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 6, 2022, by a vote of 5-0.

A handwritten signature in cursive script that reads "Don A. Brown".

Don A. Brown, Clerk
Illinois Pollution Control Board