

ILLINOIS POLLUTION CONTROL BOARD
February 17, 2022

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 17-19
)	(Enforcement – Water)
CRANBROOK FARMS, LLC, an Illinois)	
limited liability corporation,)	
)	
Respondent.)	

ORDER OF THE BOARD (by C.M. Santos):

On December 30, 2021, the parties filed an agreed modification to a stipulation and settlement the Board had accepted on May 21, 2020. For the reasons below, the Board accepts the parties’ proposed modifications.

BACKGROUND

On November 22, 2016, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Cranbrook Farms, LLC (Cranbrook). The complaint concerns Cranbrook’s swine wean-to-finish facility located at 21334 Illinois Highway 78 in Annawan, Henry County. The People alleged that Cranbrook violated Sections 12(a) and 12(d) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), (d) (2014)), and Section 501.404(c)(2) of the Board’s agriculture-related pollution regulations (35 Ill. Adm. Code 501.404(c)(2)). The People alleged that Cranbrook violated these provisions by causing or threatening water pollution, depositing livestock waste so as to create a water pollution hazard, and failing to make impermeable or seal its livestock waste storage lagoon to prevent groundwater and surface water pollution.

On March 20, 2020, the parties filed a stipulation and proposed settlement (Stip.). *See* 415 ILCS 5/31(c) (2020). In the proposed settlement, Cranbrook did not affirmatively admit the alleged violations but agreed to pay a civil penalty of \$1,500. The proposed settlement included provisions for future compliance, including deadlines to dewater and remove manure sludge and solids from specified lagoons. *See* Stip. at 11-13. The proposed settlement also included language providing that “[t]he Parties to the Stipulation may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation.” Stip. at 16.

On May 21, 2020, the Board accepted the parties’ proposed settlement. In its order, the Board noted that “the parties agreed to language allowing them to modify the stipulation and proposed settlement.” People v. Cranbrook Farms, PCB 17-19, slip op. at 2 (May 21, 2020). The Board then stated that “any modification made by the parties and not accepted by the Board

in a subsequent Board order is not enforceable under the Act.” *Id.*, citing People v. Reliable Materials Lyons, PCB 12-52, slip op. at 2 (Aug. 21, 2014).

PROPOSED MODIFICATION

On December 30, 2021, the parties filed an “Agreed First Modification to Stipulation and Proposal for Settlement” (Modif.), 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.

The Board provided notice of the parties’ proposed modification and request for relief. The newspaper notice was published in the *Henry County Republic* on January 14, 2022. 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) (2020); 35 Ill. Adm. Code 103.300(b).

The Board accepts the parties’ agreed modification to their stipulation and settlement and incorporates it as set forth above. The agreed modification revises Sections V.D and V.F but does not affect any other provision of the settlement accepted by the Board on May 21, 2020. Modif. at 3. Any further modification made by the parties and not accepted by the Board in a subsequent Board order is not enforceable under the Act. People v. Cranbrook Farms, PCB 17-19, slip op. at 2 (May 21, 2020), citing People v. Reliable Materials Lyons, PCB 12-52, slip op. at 2 (Aug. 21, 2014). The modification does not affect Cranbrook’s responsibility to comply with any federal, state, or local regulations, including the Act and the Board’s regulations. People v. Beloit Corp., PCB 96-106, slip op. at 2 (July 18, 1996).

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.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
Nancy J. Tikalsky, Asst. Attorney General Environmental Bureau	Illinois Pollution Control Board Attn: Don A. Brown, Clerk

Illinois Attorney General's Office 69 West Washington Street, Suite 1800 Chicago, IL 60602 Nancy.Tikalsky@ilag.gov	James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Cranbrook Farms LLC c/o Brad Hartmann 9703 SW 76th Lane Road Ocala, FL 34481 Bradfodhartmann@att.net	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 17, 2022, by a vote of 5-0.



Don A. Brown, Clerk
Illinois Pollution Control Board