

ILLINOIS POLLUTION CONTROL BOARD
June 1, 2023

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 22-67
) (Enforcement - Air)
SWENSON SPREADER, LLC, an Ohio)
limited liability company,)
)
Respondent.)

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

On May 5, 2022, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Swenson Spreader, LLC (Swenson). The complaint concerns the facility located at 127 Walnut Street, Ogle 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 (2020)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2020); 35 Ill. Adm. Code 103. In this case, the People allege the following against Swenson:

- Count I: Air Pollution, in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), and Section 201.142 of the Board Air Pollution Regulations;
- Count II: Air Pollution Hazard, in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), and Section 201.143 of the Board Air Pollution Regulations;
- Count III: Air Pollution Hazard, in violation of Section 9(b) of the Act, 415 ILCS 5/9(b) (2020), and Conditions 8(a)(ii), 8(d) 14(a)(iii), 14(a)(vi), and 16(a) of Federally Enforceable State Operating Permit (FESOP) No. 96030190;
- Count IV: Air Pollution, in violation of Section 9.1(d)(1) of the Act, 415 ILCS 5/9.1(d)(1) (2020), and Sections 63.11519(a)(1), 63.11519(a)(2), and 63.11519(b)(1) of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories.

On April 21, 2023, the People and Swenson 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) (2020)). This filing 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 Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Ogle County Newspapers* on May 5, 2023. 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).

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 Swenson'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) (2020)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Swenson 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) (2020)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, Swenson agrees to pay a civil penalty of \$65,000 within 30 days after the date of this order. The People and Swenson 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. Swenson must pay a civil penalty of \$65,000 no later than July 3, 2023, which is the first business day following the 30th day after the date of this order. Swenson 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. The case name and case number must appear on the certified check or money order.
3. Swenson 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

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

Ellen F. O’Laughlin
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) (2020)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2020)).
5. Swenson 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) (2020); *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
Swenson Spreader, LLC c/o Charles F. Heltson, Counsel Hinshaw & Culbertson LLC 100 Park Ave., PO Box 1389 Rockford, Illinois 61105 chelsten@hinshawlaw.com	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 60 E. Van Buren Street, Suite 630 Chicago, Illinois 60605
Ellen F. O’Laughlin Assistant Attorney General Environmental Bureau Illinois Attorney General’s Office 69 W. Washington Street, Suite 1800 Chicago, Illinois 60602 Ellen.Olaughlin@ilag.gov	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on June 1, 2023, by a vote of 3-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board