

ILLINOIS POLLUTION CONTROL BOARD
January 16, 2020

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 20-28
) (Enforcement - Land)
JANE COONEY, and individual, and JANE)
COONEY, D.D.S., P.C., an Illinois)
corporation,)
)
Respondents.)

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

On November 11, 2019, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed an eight-count complaint against Jane Cooney (Cooney) and Jane Cooney, D.D.S., PC (Cooney P.C.). The complaint concerns Cooney's dental practice at 700 West Fairchild Street, Danville, Vermillion County and Cooney's rural property at 9737 East 2150 North Road, Oakwood, Vermillion County (Oakwood Site). 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 (2018)), 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 (2018); 35 Ill. Adm. Code 103. In this case, the People allege that Cooney and Cooney P.C. violated the following sections of the Act and Board regulations:

Section 21(a) of the Act, 415 ILCS 5/21(a) (2018), by open dumping of waste by improperly disposing of medical waste from the dental practice at the Oakwood Site;

Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018), by open dumping resulting in litter by improperly disposing of hundreds of glass vials at the Oakwood Site;

Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2018), by conducting a waste disposal operation without a permit;

Sections 56.1(A)(a) and 21(d)(2) of the Act, 415 ILCS 5/56.1(A)(a), (d)(2) (2018) and Section 1420.104(a) of the Board regulations, 35 Ill. Adm. Code 1420.104(a), by disposal of potentially infectious medical waste by accumulating potentially infectious medical waste at the dental practice;

Sections 56.1(A)(b) of the Act, 415 ILCS 56.1(a)(B) (2018), and Sections 1420.104(b), 1421.121(a), 1421.131(a)(1)(a), and 1421.131(a)(1)(B) of the Board regulations, 35 Ill. Adm. Code 1420.104(b), 1421.121(a), 1421.131(a)(1)(a), and 1421.131(a)(1)(B), by failing to identify potentially infectious medical waste packaging and labeling by storing waste needles in empty detergent bottles at the dental practice;

Section 21(e) of the Act, 415 ILCS 5/21(e) (2018), by waste disposal at an improper site by storing, disposing and/or abandoning waste at the Oakwood Site;

Sections 9(a) and 9(c) of the Act, 415 ILCS 5/9(a), (c) (2018), by open burning of refuse at the Oakwood Site; and

Section 21(p)(3) of the Act, 415 ILCS 5/21(p)(3) (2018), by open dumping resulting in open burning by burning medical waste at the Oakwood Site.

On November 11, 2019, the parties 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, proposed settlement, and request for relief. The newspaper notice was published in the *Commercial-News* of Danville on November 26, 2019. 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 respondents' 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. Cooney and Cooney P.C. do not affirmatively admit 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, Cooney and Cooney, P.C. agree to pay a civil penalty of \$7,500 within 45 days after the date of this order. The People and respondents 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. Jane Cooney and Jane Cooney, D.D.S., P.C. must pay a civil penalty of \$7500 no later than Monday, February 3, 2020, which is the first business day following the 45th day after the date of this order. Respondents 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 face of the certified check or money order.
3. Respondents must submit payment of the civil penalty to:

Illinois Environmental Protection Agency
Fiscal Services #2
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Respondents must send a copy of the certified check or money order to:

Christina L. Nannini, Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

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. Respondents must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

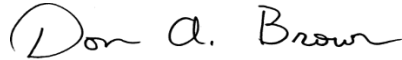
IT IS SO ORDERED.

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.

<p>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</p>

Parties	Board
Illinois Attorney General's Office Environmental Bureau Attn.: Christina L. Nannini, Assistant Attorney General 500 South Second Street Springfield, Illinois 62706 cnannini@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
Jane Cooney 700 West Fairchild Street Danville, Illinois 61832	
Jane Cooney, D.D.S., P.C. c/o CT Corporation System, Registered Agent 208 South LaSalle Street, Suite 814 Chicago, Illinois 60604	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 16, 2020 by a vote of 4-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board