ILLINOIS POLLUTION CONTROL BOARD May 21, 2020

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

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

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, Annawan, Henry 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 (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 Cranbrook violated Sections 12(a) and 12(d) of the Act (415 ILCS 5/12(a), (d) (2018)), and Section 501.404(c)(2) of the Board's regulations (35 Ill. Adm. Code 501.404(c)(2)). The People allege that Cranbrook violated these provisions by causing or threatening water pollution, depositing livestock waste upon the land in such place and manner so as to create a water pollution hazard, and by failing to make impermeable or seal its livestock waste storage lagoon in order to prevent groundwater pollution and surface water pollution.

On March 20, 2020, the People and Cranbrook 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 Geneseo Henry County Republican on April 24, 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. *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 Cranbrook'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. Cranbrook 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) (2018)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, Cranbrook agrees to pay a civil penalty of \$1,500 within 30 days after the date of this order. The People and Cranbrook have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

Finally, the parties have agreed to language allowing them to modify the stipulation and proposed settlement. *See* Stipulation and Proposed Settlement at 16 (Enforcement and Modification of Stipulation). The Board notes, however, that any modification made by the parties and not accepted by the Board in a subsequent Board order is not enforceable under the Act. *See*, *e.g.*, People v. Reliable Materials Lyons, LLC, PCB 12-52, slip op. at 2 (Aug. 21, 2014).

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. However, any modification of the stipulation and proposed settlement made by the parties will not be incorporated into this Board order and will not be enforceable under the Environmental Protection Act (415 ILCS 5 (2018)) unless accepted by the Board in a subsequent order.
- 2. Cranbrook Farms, LLC must pay a civil penalty of \$1,500 no later than Monday, June 22, 2020, which is the first business day following the 30th day after the date of this order. Cranbrook Farms, LLC 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. Cranbrook Farms, LLC 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

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

Nancy J. Tikalsky, Assistant Attorney General Environmental Bureau North Illinois Attorney General's Office 69 West Washington Street, Suite 1800

Chicago, IL 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. Cranbrook Farms, LLC 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.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court		
Parties	Board	
Nancy J. Tikalsky, Assistant Attorney General Environmental Bureau North Illinois Attorney General's Office 69 West Washington Street, Suite 1800 Chicago, IL 60602 ntikalsky@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 don.brown@illinois.gov	
Melissa S. Brown Jennifer M. Martin Heplerbroom, LLC 4340 Acer Grove Drive Springfield, IL 62711 Jennifer.Martin@heplerbroom.com melissa.brown@heplerbroom.com		

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 21, 2020, by a vote of 4-0.

Don A. Brown, Clerk

Illinois Pollution Control Board