

ILLINOIS POLLUTION CONTROL BOARD
August 27, 2020

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 20-94
) (Enforcement - Air)
EQUISTAR CHEMICALS, LP, a Delaware)
limited partnership,)
)
Respondent.)

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

On June 22, 2020, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Equistar Chemicals, LP (Equistar), a Delaware limited partnership. The complaint concerns Equistar’s chemical manufacturing plant located at 625 East U.S. Highway 36 in Tuscola, Douglas 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 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 Equistar violated Sections 9(a), 9.1(d), and 39.5(6)(a) of the Act (415 ILCS 5/9(a), 9.1(d), 39.5(6)(a) (2018)), Section 215.301 of the Board’s Air Pollution Regulations (35 Ill. Adm. Code 215.301), and Condition 4.1.2(d)(i)(F) of a Clean Air Act Permit Program (CAAPP) by violating volatile organic material emission limits, violating CAAPP permit conditions, and operating a process flare with visible emissions.

On June 22, 2020, the People and Equistar 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 Journal* of Tuscola on July 22, 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 Equistar'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. Equistar neither admits nor denies 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, Equistar agrees to pay a civil penalty of \$120,000 within 30 days after the date of this order. The People and Equistar 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. Equistar must pay a civil penalty of \$120,000 no later than Monday, October 5, 2020, which is the first business day following the 30th day after the date of this order. Equistar 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. Equistar 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

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

Chelsea K. Neilson, Assistant Attorney General
Environmental Bureau
Illinois Attorney General 's Office
500 South Second Street
Springfield, IL 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. Equistar 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
Office of the Attorney General Attn: Chelsea K. Neilson, Assistant Attorney General Environmental Bureau 500 South Second Street Springfield, IL 62701 cneilson@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
Equistar Chemicals, LP Attn: Jeryl Olson Seyfarth Shaw LP 233 S. Wacker Dr., Suite 8000 Chicago, Illinois 60606 JOlson@seyfarth.com	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 27, 2020, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board