

ILLINOIS POLLUTION CONTROL BOARD  
 March 4, 2021

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 21-42  
 ) (Enforcement - Water)  
 CITY OF COLONA, an Illinois municipal )  
 corporation, )  
 )  
 Respondent. )

OPINION AND ORDER OF THE BOARD (by B.F. Currie):

On December 15, 2020, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against the City of Colona (Colona). The complaint concerns Colona’s property located at 4356 Poppy Garden Road in Colona, Henry County. Accompanying the complaint was a stipulation, proposal for settlement, and request for relief from the hearing requirement. 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 Colona violated Sections 12(a) and 12(f) of the Act (415 ILCS 5/12(a), (f) (2018)), Sections 305.102(b), 309.102(a), and 309.104(a) of the Board’s water pollution regulations (35 Ill. Adm. Code 305.102(b), 309.102(a), 309.104(a)) and Special Conditions 2, 6, 14, 15, 16, and 21 of its National Pollutant Discharge Elimination System (NPDES) Permit No. IL0059757.

The People allege that Colona committed these violations by failing to comply with reporting requirements, failing to timely apply for reissuance of its NPDES permit, and discharging contaminants without an NPDES permit.

On December 15, 2020, the People and Colona 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 *Henry County Republic* on January 15, 2021. 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 Colona'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. Colona admits 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, Colona agrees to pay a civil penalty of \$4,914 within 30 days after the date of this order. The People and Colona 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. Colona must pay a civil penalty of \$4,914 no later than April 5, which is the first business day following the 30th day after the date of this order. Colona 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. Colona 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

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

Arlene R. Haas  
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) (2018)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2018)).
5. Colona must cease and desist from future violations of the Act and Board regulations that were the subject matter 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.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
Arlene R. Haas Assistant Attorney General Environmental Bureau Illinois Attorney General's Office 69 W. Washington Street, Suite 1800 Chicago, Illinois 60602 <a href="mailto:ahaas@atg.state.il.us">ahaas@atg.state.il.us</a>	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
City of Colona Pappas Wright PC Attn: Jeffrey Wright 1617 Second Avenue, Suite 300 Rockford, IL 61201 <a href="mailto:jwright@pappaswright.com">jwright@pappaswright.com</a>	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 4, 2021, by a vote of 4-0.



Don A. Brown, Clerk  
 Illinois Pollution Control Board