

ILLINOIS POLLUTION CONTROL BOARD
April 15, 2021

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 21- 57
)	(Enforcement - Water)
CRYSTAL COLD, LLC, an Illinois limited)	
liability company,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by A. Palivos):

On February 8, 2021, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Crystal Cold, LLC (Respondent). The complaint concerns Respondent’s property located at 338N County Road 475E in Arthur, 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 Respondent violated Sections 12(a), (d), 21(a), (e), (p)(1), (p)(4), and (p)(6) of the Act,(415 ILCS 5/12(a), (d), 21(a), (e), (p)(1), (p)(4), and (p)(6) (2018)). In addition, the People allege Respondent violated Sections 302.212(a), 304.105, and 304.106 of the Board’s Water Pollution Regulations (35 Ill. Adm. Code 302.212(a), 304.105, and 304.106). The People allege Respondent violated these provisions by improperly operating a sewage filtration system so as to cause water pollution and open dumping of waste.

On February 8, 2021, simultaneously with the People’s complaint, the People and Respondent 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* on March 10, 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 Respondent'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. Respondent 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, Respondent agrees to pay a civil penalty of \$12,500 within 30 days after the date of this order. The People and Respondent 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 11. 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. Respondent must pay a civil penalty of \$12,500 no later than May 17, 2021, which is the first business day following the 30th day after the date of this order. Respondent 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. Respondent 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

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

Natalie Long
Assistant Attorney General
Environmental Bureau

Illinois Attorney General's Office
 500 South Second Street
 Springfield, Illinois 62701

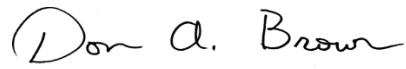
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2018)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2018)).
5. Respondent must cease and desist from future violations 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: Natalie Long 500 South Second Street Springfield, IL 62706 nlong@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
Brown, Hay & Stephens, LLP Attn: Claire A. Manning 205 South Fifth Street, Suite 700 P.O. Box 2459 Springfield, IL 62705 cmanning@bshlaw.com	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on April 15, 2021, by a vote of 3-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, looped initial "D".

Don A. Brown, Clerk
Illinois Pollution Control Board