

ILLINOIS POLLUTION CONTROL BOARD
February 17, 2022

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 22-28
) (Enforcement – Water)
BRELL, LLC, an Iowa limited liability)
company d/b/a Edwards Ready Mix; HAHN)
READY MIX COMPANY, an Iowa)
corporation; and BUILDER’S SAND AND)
CEMENT CO., INC., an Iowa corporation,)
)
Respondents.)

ORDER OF THE BOARD (by J. Van Wie):

On December 30, 2021, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a six-count complaint against three respondents: Brell, LLC d/b/a Edwards Ready Mix (Brell), Hahn Ready Mix Company (Hahn), and Builder’s Sand and Cement Com., Inc. (BSCC) (collectively, respondents). The complaint concerns three ready-mix concrete manufacturing facilities, the first owned by Brell and operated by Hahn at 210 South Chicago Street, Geneseo, Henry County (Geneseo site); the second owned and operated by Hahn at 1600 North East Street, Kewanee, Henry County (Kewanee Site); and the third owned by Hahn and operated by BSCC at 1215 158th Street NE, East Moline, Rock Island County (E. Moline Site).

Accompanying the complaint was a stipulation, proposal for settlement, and request for relief from the hearing requirement. The parties therefore seek to settle the complaint without a hearing. For the reasons below, the Board grants the request for hearing relief and accepts the settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2020)), 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 (2020); 35 Ill. Adm. Code 103. In this case, the People allege:

Count I: Brell and Hahn violated Section 12(f) of the Act (415 ILCS 5/12(f) (2020)), Section 309.102(a) of the Board’s water pollution regulations (35 Ill. Adm. Code 309.102(a)), and Standard Condition No. 2 of the NPDES Permit for the Geneseo site. The People allege that Brell and Hahn violated these provisions by failing to timely submit a Notice of Intent (NOI) to renew the general National Pollutant Discharge Elimination

System (NPDES) permit and a Storm Water Pollution Prevention Plan (SWPPP) for the Geneseo Site;

- Count II:** Brell and Hahn violated Section 12(a) of the Act (415 ILCS 5/12(a) (2020)) by threatening the discharge of contaminants so as to cause or tend to cause water pollution from the Geneseo Site;
- Count III:** Hahn violated Section 12(f) of the Act (415 ILCS 5/12(f) (2020)), Section 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 309.102(a)), and Standard Condition No. 2 of the Kewanee NPDES Permit. The People allege that Hahn violated these provisions by failing to timely renew the Kewanee NPDES permit and submit a SWPPP;
- Count IV:** Hahn violated Section 12(a) of the Act (415 ILCS 5/12(a) (2020)) by threatening the discharge of contaminants so as to cause or tend to cause water pollution from the Kewanee Site;
- Count V:** Hahn and BSCC violated Section 12(f) of the Act (415 ILCS 5/12(f) (2020)), Section 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 309.102(a)), and Standard Condition No. 2 of the E. Moline NPDES Permit. The People allege that Hahn and BSCC violated these provisions by failing to timely renew the BSCC NPDES permit and submit a SWPPP for the E. Moline Site;
- Count VI:** Hahn and BSCC violated Section 12(a) of the Act (415 ILCS 5/12(a) (2020)) threatening the discharge of contaminants so as to cause or tend to cause water pollution from the E. Moline Site.

On December 30, 2021, simultaneously with the People's complaint, the People and respondents 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) (2020)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2020)), 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. On January 14, 2022, the newspaper notice was published in the *Henry County Republic*. 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) (2020); 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) (2020)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Respondents 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) (2020)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, respondents agree to pay a civil penalty of \$30,000, jointly and severally, within 30 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. Respondents must joint and severally pay a civil penalty of \$30,000 no later than March 21, 2022, which is the first business day following the 30th 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 certified check or money order.
3. Respondents 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

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

Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602
nancy.tikalsky@ilag.gov

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2020)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2020)).
5. Respondents shall timely submit annual reports and permit renewals for General NPDES permit for Storm Water Discharges from Industrial Activity #ILR003629 (Geneseo NPDES Permit) and General NPDES Permit for Storm Water

Discharges from Industrial Activity #ILR003281 (E. Moline NPDES Permit) and shall otherwise comply with all terms and conditions of coverage under the Geneseo NPDES Permit and 2021 E. Moline NPDES Permit.

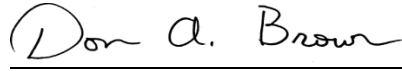
6. The Illinois Environmental Protection Agency, its employees and representatives, and the Illinois Attorney General, his employees and representatives, may enter into and upon the Respondents' Geneseo Site (located at 210 South Chicago Street, Geneseo, Henry County) and E. Moline Site (located at 1215 158th Street NE, East Moline, Rock Island County) at all reasonable times to conduct inspections and evaluate compliance status and may take photographs, samples, and collect information, as they deem necessary.
7. 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.

Any person adversely affected or threatened by this final Board order may obtain judicial review of the order by filing a petition for review within 35 days after the date the Board order was served on the person affected by the order, under the provisions of the Administrative Review Law, and the rules adopted under it, except that review will be afforded directly in the appellate court for the district in which the cause of action arose and not in the circuit court. For purposes of this judicial review, a person is deemed to have been served with the Board's final order on the date on which the order is first published by the Board on its website. 415 ILCS 5/38.5(j) (2020); 35 Ill. Adm. Code 104.585. Within 35 days after receiving this final Board order, any participant to this Board proceeding may file a motion asking the Board to reconsider or modify the order. 35 Ill. Adm. Code 101.520, 104.565(e). Filing a motion to reconsider this final Board 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 Illinois Attorney General Attn: Nancy J. Tikalsky 69 W. Washington Street, Suite 1800 Chicago, Illinois 60602 nancy.tikalsky@ilag.gov	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Hahn Ready Mix Company Attn: Wayne Lawson 3636 W. River Drive Davenport, Illinois 52902 wlawson@hahnrmg.com	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 17, 2022, by a vote of 5-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above a horizontal line.

Don A. Brown, Clerk
Illinois Pollution Control Board