## ILLINOIS POLLUTION CONTROL BOARD May 26, 2022

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Complainant, )	
)	
v. )	
)	
CATERPILLAR, INC., a Delaware )	
Corporation,	
)	
Respondent. )	

PCB 22-60 (Enforcement – Land, Water)

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

On April 6, 2022, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Caterpillar, Inc. (Caterpillar). The complaint concerns Caterpillar's manufacturing facility located at 1300 4H Park Road in Pontiac, Livingston County. 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 accepts the parties' stipulation and proposed 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 that Caterpillar violated Sections 12(a) and (d) and 21(a) and (e) of the Act, 415 ILCS 5/12(a) and (d), 21(a) and (e) (2020). In this case, the People allege that Caterpillar committed these violations by causing, threatening, or allowing the discharge of contaminants into waters of the State so as to cause or tend to cause water pollution in Illinois; depositing contaminants upon the land in such place and manner so as to create a water pollution hazard; causing or allowing the open dumping of waste; and disposing of, treating, storing, or abandoning wastes at a facility that does not meet the requirements of the Act and Board regulations. On April 21, 2022, the Board accepted the complaint for hearing.

On April 6, 2022, simultaneously with the People's complaint, the People and Caterpillar 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 newspaper notice was published in the *Pontiac Daily Leader* on April 29, 2022. 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 Caterpillar'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) (2020)], which bears on the reasonableness of the circumstances surrounding 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 stipulation, Caterpillar neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$33,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2020); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice. The Board accepts the stipulation and proposed settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.

## <u>ORDER</u>

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. Caterpillar must pay a civil penalty of \$33,000 no later than Monday, June 27, 2022, which is the first business day following the 30th day after the date of this order. Caterpillar 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. Caterpillar 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

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

Kevin Bonin, Assistant Attorney General Illinois Attorney General's Office Environmental Bureau 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) (2020)] at the rate set forth in Section 1003(a) of the Illinois Income Tax Act [35 ILCS 5/1003(a) (2020)].
- 5. Caterpillar 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) (2020); *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	
Illinois Attorney General's Office Attn: Kevin Bonin 500 South Second Street Springfield, Illinois 62701 Kevin.Bonin@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 don.brown@illinois.gov	
Robert Durango Caterpillar 100 NE Adams St Peoria, IL 61629 309-675-1553		

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 26, 2022, by a vote of 4-0.

Don a. Brown

Don A. Brown, Clerk Illinois Pollution Control Board