

ILLINOIS POLLUTION CONTROL BOARD

August 3, 2023

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 23-125
	)	(Enforcement - Water)
K.D. CRAIN AND SONS, INC., an Illinois	)	
corporation,	)	
	)	
Respondent.	)	

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

On June 7, 2023, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against K. D. Crain and Sons, Inc. (Crain and Sons). The complaint concerns Crain and Sons’ Southern Delta Mine located 12 miles east of Marion in Williamson and Saline Counties. 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 (2022)), 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 (2022); 35 Ill. Adm. Code 103. In this case, the People allege that Crain and Sons violated Section 12(a) and (f) of the Act (415 ILCS 5/12(a), (f) (2022)), Sections 305.102(b) and 309.102(a) of the Board’s Water Pollution Regulations (35 Ill. Adm. Code 305.102(b) and 309.102(a)), and Special Conditions 3 and 4 of the NPDES Permit by causing, threatening, or allowing discharges from the facility into waters of the State in violation of its NPDES Permit.

On June 7, 2023, simultaneous with the People’s complaint, the People and Crain and Sons 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) (2022)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2022)), 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 *Harrisburg Register* on June 21, 2023, and in the *Marion Republican* on June 21, 2023. 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) (2022); 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 the Crain and Sons' 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) (2022)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Crain and Sons admits the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2022)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, Crain and Sons agrees to pay a civil penalty of \$6,500 within 30 days after the date of this order. The People and Crain and Sons 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. Crain and Sons must pay a civil penalty of \$6,500 no later than September 4, 2023, which is the first business day following the 30th day after the date of this order. Crain and Sons 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. Crain and Sons 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

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

Bridget I. Flynn  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 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) (2022)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2022)).

5. Crain and Sons must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

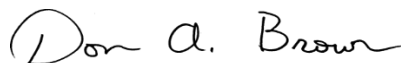
IT IS SO ORDERED.

Member M. D. Mankowski abstained.

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) (2022); *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>
Bridget I. Flynn Office of the Illinois Attorney General 500 South Second Street Springfield, Illinois 62706 <a href="mailto:Bridget.Flynn@ilag.gov">Bridget.Flynn@ilag.gov</a>	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 E. Van Buren St., Suite 630 Chicago, Illinois 60605
K.D. Crain and Sons, Inc. Daniel Crain 13751 Prosperity Road Johnston City, Illinois 62951	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 3, 2023, by a vote of 3-0.



Don A. Brown, Clerk  
 Illinois Pollution Control Board