

ILLINOIS POLLUTION CONTROL BOARD
September 7, 2023

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 23-101
) (Enforcement - Air)
RICK E. HEIDNER, an individual; JAMES)
EDWARD SAYRE, an individual; DAVID R.)
HEIDNER, an individual; and PARKWAY)
BANK AND TRUST COMPANY, as Trustee)
under Trust Agreement Dated May 28, 2002,)
and known as Trust No. 13296, an Illinois)
Land Trust;)
)
Respondents.)

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

On March 17, 2023, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against Rick E. Heidner, individually; Edward Sayre, individually; David R. Heidner, individually; and Parkway Bank and Trust Company, as trustee under trust agreement dated May 28, 2002, and known as Trust No. 13296, an Illinois land trust. The complaint concerns a gasoline dispensing facility located at 659 West 31st Street in Chicago, Cook County, also known as 3101 South Union Avenue, Chicago, Cook County (Site). Rick E. Heidner, Edward Sayre, and David R. Heidner are each a beneficial owner of the Site, and Parkway Bank and Trust holds legal title to the Site.

The People have filed a motion to voluntarily dismiss without prejudice respondent David. R. Heidner. The parties have also filed a joint stipulation and proposed settlement as to the remaining respondents Rick E. Heidner, Edward Sayre, and Parkway Bank and Trust Company (collectively, Respondents). The parties therefore seek to settle the complaint without a hearing. For the reasons below, the Board grants the motion to dismiss David. R. Heidner and directs the Clerk to provide public notice of the stipulation, proposed settlement, and request for hearing relief as to the remaining Respondents.

MOTION TO DISMISS DAVID R. HEIDNER WITHOUT PREJUDICE

On August 4, 2023, the People filed a motion to voluntarily dismiss without prejudice respondent David R. Heidner (Mot. to Dis.). The People report that Respondents provided documentation showing that respondent David R. Heidner assigned his beneficial interest in the Site on January 14, 2008. Mot. to Dis. at 2. Accordingly, David R. Heidner did not own any vapor collection and control systems at the Site that required decommissioning prior to the December 31, 2016 statutory deadline that are the subject of this complaint. *Id.* The People

move to dismiss David R. Heidner without prejudice and with the parties to each bear their own costs. *Id.* at 3, citing 735 ILCS 5/2-1009(a), 5-117 (2022). The Respondents did not file any opposition to this motion.

Based on the facts and circumstances of the record of this proceeding, the Board grants the People's motion and dismisses David R. Heidner as a respondent from this case.

STIPULATION AND PROPOSED SETTLEMENT

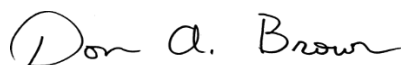
Under the Environmental Protection Act (Act) (415 ILCS 5 (2022)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. See 415 ILCS 5/31 (2022); 35 Ill. Adm. Code 103. In this case, the People allege that Respondents violated Section 9(a) of the Act (415 ILCS 5/9(a) (2022)) and Sections 218.586(i)(1)(B) and 218.586(i)(2)(C) of the Board Air Pollution Regulations (35 Ill. Adm. Code 218.586(i)(1)(B), 218.586(i)(2)(C)). The People allege Respondents committed these violations by causing, threatening, or allowing the discharge or emission of volatile organic compounds into the environment; by failing to timely decommission their vapor collection and control system; and by failing to submit a decommissioning checklist, certification, and test results to the Illinois Environmental Protection Agency.

On August 4, 2023, the People and Rick E. Heidner, Edward Sayre, and Parkway Bank and Trust Company 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). Under the proposed stipulation, the Respondents neither admit nor deny the alleged violations and agree to pay a civil penalty of \$5,000.

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 request for relief and hold a hearing. See 415 ILCS 5/31(c)(2) (2022); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 7, 2023, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board