

ILLINOIS POLLUTION CONTROL BOARD  
November 2, 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. )

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

On March 21, 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). The complaint alleged that 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.

On September 7, 2023, the Board granted the People’s 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 (collectively, Respondents). The People and Respondents 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 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 that respondents committed these violations by failing to timely decommission their vapor collection and control system; failing to timely submit a decommissioning checklist, certification, and test results to the Illinois Environmental Protection Agency (IEPA); and by causing, threatening, or

allowing the discharge or emission of volatile organic compounds into the environment so as to violate Board regulations.

On August 4, 2023, the People and Rick E. Heidner, Edward Sayre, and Parkway Bank and Trust 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 *Chicago Sun-Times* on October 4, 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 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) (2022)), 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) (2022)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, Respondents agree to pay a civil penalty of \$5,000 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 pay a civil penalty of \$5,000 no later than December 4, 2023, 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:

Molly Kordas  
 Assistant Attorney General  
 Environmental Bureau  
 Illinois Attorney General's Office  
 69 W. Washington Street, Suite 1800  
 Chicago, Illinois 60602

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) (2020)).
5. Respondents must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

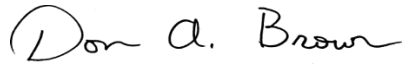
IT IS SO ORDERED.

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>
Rick E. Heidner Edward Sayre Parkway Bank and Trust  Christopher J. Goluba, Counsel for Respondents Christopher J. Goluba P.C.	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 60 E. Van Buren Street, Suite 630 Chicago, Illinois 60605

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Molly Kordas Assistant Attorney General Environmental Bureau Illinois Attorney General's Office 69 W. Washington Street, Suite 1800 Chicago, Illinois 60602 <a href="mailto:Molly.Kordas@ilag.gov">Molly.Kordas@ilag.gov</a>	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 2, 2023, by a vote of 4-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board