

ILLINOIS POLLUTION CONTROL BOARD
July 11, 2024

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 24-4
) (Enforcement - Land)
KIRK V. FELLER, an individual, and)
FELLER OILFIELD SERVICE, INC., an)
Illinois corporation,)
)
 Respondents.)

OPINION AND ORDER OF THE BOARD (by M.D. Mankowski):

On July 19, 2023, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a nine-count complaint against Kirk V. Feller and Feller Oilfield Service, Inc. (Respondents). The complaint concerns Respondents' oil field services, transportation, road grading and excavating company located at 1008 West Cumberland Road, Saint Elmo, Fayette County. 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 Respondents violated the Act and Board regulations as follows:

Count I: Section 21(a) of the Act, 415 ILCS 5/21(a) (2022), by causing or allowing the open dumping of waste.

Count II: Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2022), by causing or allowing the open dumping of waste in a manner that resulted in litter.

Count III: Section 21(d)(1) of the Act, ILCS 5/21(d)(1) (2022), by conducting a waste disposal operation without a permit granted by Illinois Environmental Protection Agency.

Count IV: Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2022), by conducting a waste disposal operation in violation of a regulation adopted by the Board under the Act.

Count V: Section 21(e) of the Act, 415 ILCS 5/21(e) (2022), by disposing, storing, and/or abandoning wastes.

Count VI: Section 55(a)(5) of the Act, 415 ILCS 5/55(a)(5) (2022), by abandoning, dumping and/or disposing of used and/or waste tires.

Count VII: Section 12(a) of the Act, 415 ILCS 5/12(a) (2022), by causing, threatening, or allowing the discharge of waste into the environment so as to cause or tend to cause water pollution.

Count VIII: Section 12(d) of the Act, 415 ILCS 5/12(d) (2022), by depositing contaminants upon the land so as to create a water pollution hazard.

Count IX: Section 21(p)(4) of the Act, 415 ILCS 21(p)(4) (2022), by causing or allowing the open dumping of waste at the Site in a manner which resulted in the deposition of waste in standing or flowing waters.

On May 28, 2024, 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) (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 *Effingham Daily* on June 11, 2024, and the *Vandalia Leader-Union* on June 13, 2024. 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 agrees to pay a civil penalty of \$50,000 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 \$50,000 no later than August 12, 2024, 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:

Kevin D. Bonin
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. Respondents must cease and desist from future violations of the Act and Board regulations that were the subject of the complaint.

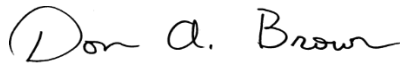
IT IS SO ORDERED.

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.

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 D. Bonin Assistant Attorney General Environmental Bureau 500 South Second Street Springfield, Illinois 62706 Kevin.Bonin@ilag.gov	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 E. Van Buren Street Suite 630 Chicago, Illinois 60605 Don.Brown@illinois.gov
Feller Oilfield Service, Inc. Attn: Kirk V. Feller, Registered Agent Route 40 West PO Box 67 St. Elmo, Illinois 62458-0067 Kirk V. Feller Route 40 West PO Box 67 St. Elmo, Illinois 62458-0067	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 11, 2024, by a vote of 4-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board