

ILLINOIS POLLUTION CONTROL BOARD  
May 1, 2014

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 13-35
	)	PCB 13-36
THE BOARD OF TRUSTEES OF THE	)	(Enforcement - Air)
UNIVERSITY OF ILLINOIS, a body	)	(Consolidated)
corporate and politic,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by J.D. O’Leary):

On January 3, 2013, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed two complaints against the Board of Trustees of the University of Illinois (University). The Board opened a docket for each complaint, PCB 13-35 and PCB 13-36. Both complaints concern the University’s campus facilities in Chicago, Cook County, and allege air pollution control violations by the University. PCB 13-35 concerns a power plant located at 1140 South Morgan Street for the University’s East Campus, while PCB 13-36 concerns a power plant located at 1717 West Taylor Street for the University’s West Campus. By order of April 18, 2013, the Board consolidated PCB 13-35 and PCB 13-36 for purposes of hearing and decision. 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 (2012)), 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 (2012); 35 Ill. Adm. Code 103. The People allege in PCB 13-35 that the University violated Section 39.5(6)(b) of the Act (415 ILCS 5/39.5(6)(b) (2012)) by failing to comply with Clean Air Act Permit Program (CAAPP) permit renewal requirements. In PCB 13-36, the People first allege that the University violated Sections 9(b) and 9.12(j) of the Act (415 ILCS 5/9(b), 9.12(j) (2012)), Section 201.142 of the Board’s regulations (35 Ill. Adm. Code. 201.142), and Condition 1.4(a) of the University’s Construction Permit by constructing air emission sources without a permit. The People also allege in PCB 13-36 that the University violated Section 9(a) of the Act (415 ILCS 5/9(a) (2012)) and Section 203.201 of the Board’s regulations (35 Ill. Adm. Code 203.201) by failing to comply with New Source Review requirements. Lastly, the People allege in PCB 13-36 that the University violated Section 39.5(6)(b) of the Act (415 ILCS 5/39.5(6)(b) (2012)) by failing to comply with CAAPP permit requirements.

On March 10, 2014, the People and the University 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) (2012)). This filing is authorized by Section 31(c)(2) of the Act

(415 ILCS 5/31(c)(2) (2012)), 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 March 28, 2014. 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) (2012); 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 University'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) (2012)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The University does not affirmatively admit the alleged violations.<sup>1</sup> The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2012)), which may mitigate or aggravate the civil penalty amount. The University agrees to pay a civil penalty of \$10,000. In addition, the University agrees to perform a supplemental environmental project with a settlement value of \$101,000 consisting of "[r]eplacement of at least one (1) of two (2) chillers that currently use ozone depleting refrigerant R-11 with one that uses a non-ozone depleting refrigerant at the University's Administrative Office Building, located at 1737 West Polk Street, Chicago, Illinois." The People and the University 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. The University must pay a civil penalty of \$10,000 no later than July 2, 2014, which is the 60th day after the date of this order. The University must pay the civil penalty by certified check 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 face of the check.
3. The University must submit payment of the civil penalty to:

Illinois Environmental Protection Agency, Fiscal Services Division  
1021 North Grand Avenue East

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<sup>1</sup> In addition to the violations alleged in the consolidated complaints, Section I.C of the parties' stipulation and proposed settlement, entitled "Additional Violations Being Resolved," states that the People contend the University has violated additional provisions of the Act and Board regulations and permit conditions. Section I.D states that University does not affirmatively admit the violations referred to in Section I.C.

P.O. Box 19276  
Springfield, Illinois 62794-9276

The University must send a copy of the certified check and any transmittal letter to:

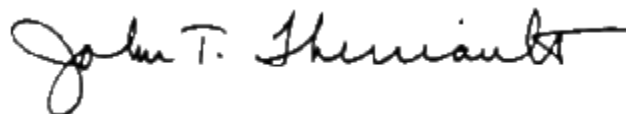
Jennifer A. Van Wie, Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

4. The University must perform a supplemental environmental project consisting of "[r]eplacement of at least one (1) of two (2) chillers that currently use ozone depleting refrigerant R-11 with one that uses a non-ozone depleting refrigerant at the University's Administrative Office Building, located at 1737 West Polk Street, Chicago, Illinois.
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
6. The University 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) (2012); *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.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 1, 2014 by a vote of 4-0.




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John T. Therriault, Clerk  
Illinois Pollution Control Board