ILLINOIS POLLUTION CONTROL BOARD August 20, 2015

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 15-213 (Enforcement - Land)
WHITE OAK RESOURCES, LLC,)	(Emorcement - Land)
a Delaware limited liability company,)	
Respondent.)	

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

On June 25, 2015, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against White Oak Resources, LLC (respondent). The complaint concerns respondent's coal mining facility located at the corner of County Road 500E and County Road 1800N, southeast of Dahlgren, in Hamilton County. Accompanying the complaint was a stipulation and proposal for settlement. The parties therefore 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 (2014)), 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 (2014); 35 Ill. Adm. Code 103. In this case, the People allege that respondent violated Section 12(g) of the Act (415 ILCS5/12(g) (2014)), and Section 704.121 of the Board's Regulations (35 Ill. Adm. Code 704.121). According to the complaint, respondent violated these provisions by: constructing an underground injection control (UIC) well without having a UIC permit; and injecting contaminants underground into the well without having a UIC permit or authorization by rule during the 12-day injection test that occurred from late July 2013 until early August 2013.

On June 25, 2015, simultaneously with the People's complaint, the People and respondent filed a stipulation and proposed settlement. On July 6, 2015, the People filed a motion for relief from hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2014)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2014)), 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 *McLeansboro Times-Leader* on July 16, 2015. 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) (2014); 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 III. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of respondent'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) (2014)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Respondent neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2014)), which may mitigate or aggravate the civil penalty amount. Respondent agrees to pay a civil penalty of \$40,000. The People and respondent 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. White Oak Resources, LLC (respondent) must pay a civil penalty of \$40,000 no later than September 21, 2015, which is the first business day following the 30th day after the date of this order. Respondent 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 shall appear on the face of the certified check or money order.
- 3. Respondent 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

Respondent must send a copy of certified check or money order and any transmittal letter to:

Brian Clappier Assistant Attorney General Environmental Bureau Illinois Attorney General's Office 500 S. Second Street Springfield, Illinois 62701

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2014)) at the rate

- set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2014)).
- 5. Respondent 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) (2014); 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 August 20, 2015, by a vote of 5-0.

John T. Therriault, Clerk

Illinois Pollution Control Board