

ILLINOIS POLLUTION CONTROL BOARD
October 15, 2015

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 16-42
)	(Enforcement - Air)
HUEBER, LLC, an Illinois limited liability)	
company,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by J.A. Burke):

On August 28, 2015, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against Hueber, LLC (Hueber). The complaint concerns Hueber's animal feed handling and storage facility located at 110 South Main Street in Creston, Ogle 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 (2014)), the Attorney General may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2014); 35 Ill. Adm. Code 103. In this case, the People allege that Hueber violated Section 9(a) the Act (415 ILCS 5/9(a) (2014)), Section 201.302(a) of the Board's Air Pollution Regulations (35 Ill. Adm. Code 201.302(a)), and Section 254.137(a) of the Illinois Environmental Protection Agency's Air Pollution Regulations (35 Ill. Adm. Code 254.137(a)). The People allege that Hueber violated these provisions by failing to timely submit Annual Emissions Reports for calendar years 2013 and 2014.

Simultaneously with the complaint, the parties 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) (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 *Ogle County Life* on September 14, 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 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 Hueber'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. Hueber 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. Hueber agrees to pay a civil penalty of \$3,100. The People and Hueber 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 the stipulation and proposed settlement.
2. Hueber, LLC, must pay a civil penalty of \$3,100 no later than November 16, 2015, which is the first business day following the 30th day after the date of this order. Hueber 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 face of the certified check or money order.
3. Hueber 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

Hueber must send a copy of the certified check or money order, 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. 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. Hueber must cease and desist from future violations of the Environmental Protection Act, Board regulations, and Illinois Environmental Protection Agency 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 October 15, 2015, by a vote of 5-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is fluid and cursive, with a long horizontal stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board