## ILLINOIS POLLUTION CONTROL BOARD May 19, 2016

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	)	
V.	)	PCB 09-60 (Enforcement-Water)
CROP PRODUCTION SERVICES,	)	(Emoreoment water)
a Delaware corporation,	)	
	)	
Respondent.	)	

## ORDER OF THE BOARD (by C.K. Zalewski):

The People of the State of Illinois alleged that Crop Production Services (CPS) caused, threatened or allowed water pollution at three agrichemical and fertilizer retail facilities: one in Sinclair, Morgan County; another in White Hall, Greene County; and a third southwest of Galesburg and east of Highway 41 in Knox County. The parties seek to settle this enforcement action without a hearing. On April 21, 2016, the Board directed the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement. The Board received no request for hearing. Therefore, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act), 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 the April 6, 2009 complaint, the People allege that CPS violated Sections 12(a) and 12(d) of the Act by causing, allowing or threatening the discharge of contaminants to waters of the state and depositing contaminants on the land in such place and manner so as to cause or tend to cause water pollution. 415 ILCS 5/12(a), (d) (2014).

The stipulation and proposed settlement is authorized by Section 31(c)(2) of the Act 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 415 ILCS 5/31(c)(2) (2014); 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief in *The Journal Courier* in Jacksonville, Morgan County, *The Register-Mail* in Galesburg, Knox County, and the *Greene Prairie Press* in Carrollton, Greene County all on April 27, 2016. The Board did not receive any requests for hearing and 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. 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 CPS's operations. Section 103.302 also requires that the parties stipulate to facts called for by

Section 33(c) of the Act, which bears on the reasonableness of the circumstances surrounding the alleged violations. 415 ILCS 5/33(c) (2014). CPS does not affirmatively admit the allegations of violation. Stip. at 4. The stipulation also addresses the factors of Section 42(h) of the Act, which may mitigate or aggravate the civil penalty amount. 415 ILCS 5/42(h) (2014). CPS agrees to pay a civil penalty of \$76,000. The People and CPS 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. Crop Production Services (CPS), must pay a civil penalty of \$76,000 no later than June 20, 2016, which is the first business day following the 30th day after the date of this order. CPS 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, case number, and CPS's federal tax identification number must appear on the face of the certified check or money order.
- 3. CPS must submit payment of the civil penalty to:

Illinois Environmental Protection Agency Fiscal Services Division 1021 North Grand Avenue East PO Box 19276 Springfield IL 62794-9276

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

Jane E. McBride Assistant Attorney General Environmental Bureau, Springfield Illinois Attorney General's Office 500 South Second Street Springfield IL 62706

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act at the rate set forth in Section 1003(a) of the Illinois Income Tax Act. 415 ILCS 5/42(g) (2014); 35 ILCS 5/1003(a) (2014).

5. CPS must cease and desist from future violations of the Act and Board regulations that were the subject matter 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 May 19, 2016, by a vote of 5-0.

John T. Therriault, Clerk

Illinois Pollution Control Board