## ILLINOIS POLLUTION CONTROL BOARD June 8, 2017

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
V.	)	F
	)	(
PEABODY COULTERVILLE MINING,	)	
LLC, a Delaware limited liability company,	)	
	)	
Respondent.	)	

PCB 17-76 (Enforcement - Water)

ORDER OF THE BOARD (by G.M. Keenan):

On June 2, 2017, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a seven-count complaint against Peabody Coulterville Mining, LLC (Peabody). The complaint concerns Peabody's property located at 13101 Zeigler #11 Road in Coulterville, Randolph County. Accompanying the complaint was a stipulation, proposal for settlement, and request for relief from the hearing requirement. The parties therefore seek to settle the complaint without a hearing. For the reasons below, the Board accepts the complaint and directs the Clerk to provide public notice of the stipulation, proposed settlement, and request for hearing relief.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2016)), 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 (2016); 35 Ill. Adm. Code 103. In this case, the People allege that coal slurry decant water was discharged from Peabody's facility to an unnamed tributary to Mary's River in August 2016. The People further allege that Peabody did not take a sample of this discharge or report it to the Illinois Environmental Protection Agency.

The People allege that through this discharge, Peabody violated the Act, Board regulations, and the facility's National Pollutant Discharge Elimination System (NPDES) permit. Specifically, the People allege that Peabody violated:

- (1) Section 12(a) of the Act (415 ILCS 5/12(a) (2016)) by threatening or allowing the release of coal slurry decant water into the unnamed tributary to Mary's River;
- (2) Section 12(d) of the Act (415 ILCS 5/12(d) (2016)) by depositing contaminants upon the land at Peabody's facility in a place and manner that created a water pollution hazard;
- (3) Section 12(f) of the Act (415 ILCS 5/12(f) (2016), Sections 305.102(b) and 309.102(a) of the Board's regulations (35 Ill. Adm. Code 305.102(b), 309.102(a)), and Standard

Condition No. 12(f) and Special Condition No. 13 of Peabody's NPDES permit by failing to monitor and report the discharge of coal slurry water;

- (4) Section 12(a) of the Act (415 ILCS 5/12(a) (2016)) and Sections 302.203, 304.106, and 406.107 of the Board's regulations (35 Ill. Adm. Code 302.203, 304.106, and 406.107) by making an "offensive discharge" through the discharge of coal slurry decant water;
- (5) Section 12(a) of the Act (415 ILCS 5/12(a) (2016)) and Sections 302.203, 304.105, and 406.202 of the Board's regulations (35 Ill. Adm. Code 302.203, 304.105, and 406.202) by causing an "offensive condition" through the discharge of coal slurry decant water;
- (6) Section 12(a) of the Act (415 ILCS 5/12(a) (2016)), Section 406.202 of the Board's regulations (35 III. Adm. Code 406.202), and Condition 11(c) of Peabody's NPDES permit by failing to comply with the Board's "Good Mining Practices" in Sections 406.204(b) and 406.206 (35 III. Adm. Code 406.204(b), 406.206); and
- (7) Section 12(a) of the Act (415 ILCS 5/12(a) (2016)) and Section 405.111 of the Board's regulations (35 Ill. Adm. Code 405.111) by failing to notify Illinois EPA within one hour of becoming aware of the discharge of coal slurry decant water.

The Board finds that the complaint meets the applicable content requirements of the Board's procedural rules and accepts the complaint. *See* 35 Ill. Adm. Code 103.204(c).

On June 2, 2017 simultaneously with the People's complaint, the People and Peabody 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) (2016)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2016)), 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). Under the proposed stipulation, Peabody does not affirmatively admit the alleged violations and agrees to pay a civil penalty of \$42,500.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2016); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

## IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 8, 2017, by a vote of 5-0.

Don a. Brown

Don A. Brown, Clerk Illinois Pollution Control Board