



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 Ill. 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 Ill. 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.

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). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Randolph County Herald Tribune* on June 14, 2017. 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) (2016); 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 Peabody'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) (2016)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Peabody does not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2016)), which may mitigate or aggravate the civil penalty amount. Peabody agrees to pay a civil penalty of \$42,500. The People and Peabody 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. Peabody must pay a civil penalty of \$42,500 no later than August 25, 2017, which is the 30th day after the date of this order. Peabody 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. Peabody 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

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

Brain Clappier, Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
500 South 2nd Street  
Springfield, IL 62706

Roberto Durango, Assistant Counsel  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

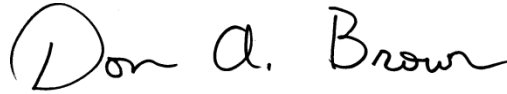
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2016)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2016)).
5. Peabody must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

IT IS SO ORDERED.

Board Members C.M. Santos and B. K. Carter abstained.

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) (2016); *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, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 26, 2017, by a vote of 3-0.

A handwritten signature in cursive script that reads "Don A. Brown". The signature is written in black ink and is positioned above a horizontal line.

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Don A. Brown, Clerk  
Illinois Pollution Control Board