ILLINOIS POLLUTION CONTROL BOARD February 22, 2018

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 18-51
)	(Enforcement – Air)
NORTH AMERICAN EN, INC.,)	,
an Illinois corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by B.K. Carter):

On December 22, 2017, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against North American EN, Inc. (North American EN). The complaint concerns North American EN's property located at 776 Lunt Avenue in Elk Grove Village, Cook 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 (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 North American EN: (1) violated the Board's air pollution regulations, the Illinois Environmental Protection Agency's air pollution regulations, and Section 9(a) of the Act by failing to timely submit a complete and accurate Annual Emission Report (AER) for 2016 (35 Ill. Adm. Code 201.302(a), 254.132(a), 254.137(a), 415 ILCS 5/9(a) (2016)); and (2) violated Section 31(a)(7.6) of the Act by violating a provision of a Compliance Commitment Agreement that required implementing an internal policy to ensure timely submittal of AERs (415 ILCS 5/31(a)(7.6) (2016)).

On December 22, 2017, simultaneously with the People's complaint, the People and North American EN 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 *Chicago Tribune* on January 17, 2018. 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 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 North American EN'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. North American EN admits to 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. North American EN agrees to pay a civil penalty of \$7,000. The People and North American EN 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. North American EN must pay a civil penalty of \$7,000 no later than March 26, 2018, which is first business day following the 30th day after the date of this order. North American EN 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. North American EN 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

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

Daniel I. Rottenberg 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) (2016)) at the rate

- set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2016)).
- 5. North American EN must cease and desist from future violations of the Environmental Protection Act and the 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) (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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court			
Parties	Board		
People of the State of Illinois	Illinois Pollution Control Board		
Attn: Daniel I. Rottenburg	Attn: Don A. Brown, Clerk		
Assistant Attorney General	James R. Thompson Center		
Environmental Bureau North	100 West Randolph Street, Suite 11-500		
69 W. Washington Street, Suite 1800	Chicago, Illinois 60601		
Chicago, IL 60602			
drottenberg@atg.state.il.us			
North American EN, Inc.			
Attn: Michael Brosio			
776 Lunt Avenue			
Elk Grove Village, IL 60007			

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 22, 2018, by a vote of 5-0.

Don A. Brown, Clerk

Illinois Pollution Control Board