ILLINOIS POLLUTION CONTROL BOARD January 17, 2019

PEOPLE OF THE STATE OF ILLINOIS,)
Complainant,)
v.) PCB 19-77
PEORIA DISPOSAL COMPANY, a Nevada corporation,) (Enforcement - Land))
Respondent.)

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

On November 30, 2018, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Peoria Disposal Company (PDC). The complaint concerns PDC's hazardous waste treatment facility property located at 4349 West Southport Road in Peoria, Peoria 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 PDC violated Sections 21(e), 21(f)(1), 21(f)(2), and 21(i) of the Act (415 ILCS 5/21(e), 21(f)(1), 21(f)(2), 21(i) (2016)); Sections 722.120(a)(1), 703.121(a)(2), 724.131, and 724.171(c) of the Board's regulations (35 Ill. Adm. Code 722.120(a)(1), 703.121(a)(2), 724.131, 724.171(c)); and Conditions VIII.35 and VIII.45 of its Resource Conservation and Recovery Act (RCRA) Permit No. B-24R-M-4.

The People allege that PDC committed these violations by disposing of waste at a site that did not meet the requirements for disposal of such waste; failing to maintain or operate its facility in a manner minimizing the possibility of an unplanned release of hazardous waste that could threaten human health or the environment; conducting a hazardous waste treatment operation in violation of the Board's regulations and a RCRA permit; transporting or arranging for the transportation of a hazardous waste without indicating on the manifest that it is a hazardous waste; initiating shipment of hazardous waste in violation of Board regulations; and by producing hazardous waste in violation of Board standards.

On November 30, 2018, simultaneous with the complaint, the People and PDC 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 *Journal Star* on Tuesday December 18, 2018. The Board did not receive a request 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 PDC'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. PDC 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. PDC agrees to pay a civil penalty of \$30,000 and perform a supplemental environmental project of providing the Illinois Environmental Protection Agency (IEPA) with 2,000 tons of non-hazardous waste disposal, free of charge, with a market value of \$60,000. The People and PDC 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. PDC must pay a civil penalty of \$30,000 no later than Tuesday February 19, 2019, which is the first business day after the 30th day after the date of this order. PDC 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. PDC must also perform a supplemental environmental project. The supplemental environmental project will provide IEPA with 2,000 tons of non-hazardous waste disposal, free of charge, with a market value of \$60,000. Performance of the supplemental environmental project must comply with the terms in Section V.E. of the Stipulation and Proposal for Settlement.
- 4. PDC 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

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

Kevin D. Bonin Assistant Attorney General Environmental Bureau Illinois Attorney General's Office 500 South Second Street Springfield, Illinois 62706

- 5. 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)).
- 6. PDC 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.

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	
Office of the Attorney General Attn: Kevin Bonin	Illinois Pollution Control Board Attn: Don A. Brown, Clerk	

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Springfield, Illinois 62706	100 West Randolph Street, Suite 11-500
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I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 17, 2019, by a vote of 5-0.

Don A. Brown, Clerk

Illinois Pollution Control Board