

The stipulation and proposal for settlement did not include count II from the complaint, but instead presented count III as though it were the second of two counts. Prop. at 3. On October 14, 2009, the People filed a motion for voluntary dismissal of count II, the alleged violations of Section 12(d) of the Act (415 ILCS 5/12(d) (2008)). Mot. at 1. The People represent that IVPC entered into the settlement agreement with the People for counts I and III of the complaint. *Id.* Further, the People have elected to withdraw the allegations related to count II of the complaint “in light of the settlement on the other violations.” *Id.* Accordingly, the People ask the Board to “enter an order of voluntary dismissal for Count II without prejudice in this cause, thus leaving the remaining Counts I and III in the original Complaint as Counts I and II, in agreement with the Stipulation and Proposal for Settlement that has been entered before the Board.” *Id.* at 2. IVPC did not file any response to the People’s motion and therefore waives any objection to the Board granting the motion. *See* 35 Ill. Adm. Code 101.500(d). The Board grants the People’s motion for voluntary dismissal of the alleged violations of Section 12(d) of the Act without prejudice.

The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Peoria Journal Star* on August 22, 2009. 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) (2008); 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 IVPC’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) (2008)), which bears on the reasonableness of the circumstances surrounding the alleged violations. IVPC neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2008)), which may mitigate or aggravate the civil penalty amount. IVPC agrees to pay a civil penalty of \$15,200. The People and IVPC 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. IVPC must pay a civil penalty of \$15,200 no later than December 7, 2009, which is the first business day following the 30th day after the date of this order. IVPC 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 IVPC’s federal tax identification number must appear on the face of the certified check or money order.

3. IVPC 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

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

Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
5. IVPC 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) (2008); *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 Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 5, 2009, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board