

ILLINOIS POLLUTION CONTROL BOARD

January 5, 2012

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 12-13
) (Enforcement - Water)
KNIGHT HAWK COAL, LLC, a Virginia)
limited liability company,)
)
Respondent.)

ORDER OF THE BOARD (by T.E. Johnson):

On July 12, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Knight Hawk Coal, LLC (Knight Hawk). The complaint concerns Knight Hawk's site called "Creek Paum Mine North," which is located in Ava, Jackson County. For the reasons below, the Board directs the Clerk to provide public notice of the stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), the Attorney General may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2010); 35 Ill. Adm. Code 103. In this case, the People allege in count I of the complaint that on specified dates in 2008, Knight Hawk violated Section 304.141 of the Board's water pollution regulations (35 Ill. Adm. Code 304.141) by discharging effluent with levels of total suspended solids (TSS) and iron in excess of limits in Knight Hawk's National Pollutant Discharge Elimination System (NPDES) permit IL0077381; Section 12(a) of the Act (415 ILCS 5/12(a) (2010)) by causing, threatening, or allowing the discharge of effluent with excess levels of TSS, iron, or acidity/alkalinity into the environment so as to cause or tend to cause water pollution or so as to violate Board regulations; and Section 12(f) of the Act (415 ILCS 5/12(f) (2010)) by causing, threatening, or allowing the discharge of effluent with levels of TSS, iron, or acidity/alkalinity in excess of Knight Hawk's NPDES permit limits. The People allege in count II that on specified dates in 2008, 2009, and 2010, Knight Hawk violated Section 304.141 of the Board's water pollution regulations (35 Ill. Adm. Code 304.141) by discharging effluent with levels of TSS, iron, sulfate, or settleable solids in excess of Knight Hawk's NPDES permit limits; Section 12(a) of the Act (415 ILCS 5/12(a) (2010)) by causing, threatening, or allowing the discharge of effluent with excess levels of TSS, iron, sulfate, settleable solids, pH, or acidity/alkalinity into the environment so as to cause or tend to cause water pollution or so as to violate Board regulations; and Section 12(f) of the Act (415 ILCS 5/12(f) (2010)) by causing, threatening, or allowing the discharge of effluent with levels of TSS, iron, sulfate, settleable solids, pH, or acidity/alkalinity in excess of Knight Hawk's NPDES permit limits.

On December 19, 2011, the People and Knight Hawk 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) (2010)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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, Knight Hawk does not affirmatively admit the alleged violations but agrees to pay a civil penalty of \$14,750.

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 request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2010); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 5, 2012, by a vote of 5-0 .



John Therriault, Assistant Clerk
Illinois Pollution Control Board