

ILLINOIS POLLUTION CONTROL BOARD

November 15, 2012

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 06-8
)	(Enforcement - Air)
BRIDGEPORT GRAIN, INC.,)	
)	
Respondent.)	

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

On July 19, 2005, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Bridgeport Grain, Inc. (Bridgeport Grain). The complaint concerns Bridgeport Grain's grain elevator and storage facility located at 123 Main Street, Bridgeport, Lawrence 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 (2010)),¹ 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 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that Bridgeport Grain violated Sections 9(a) and 9(b) of the Act (415 ILCS 5/9(a), 9(b) (2010)), 35 Ill. Adm. Code Sections 201.141, 212.461(b), 212.462(d)(1), and Conditions 5(b), 5(a), 6(e), 8(a)(1) of Operating Permit No. 72111147. According to the complaint, Bridgeport Grain violated these provisions by causing, allowing or threatening the emission of contaminants, so as to cause or tend to cause air pollution in Illinois, whether alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board, by failing to comply with the housekeeping and operating practices, including failing to maintain a housekeeping checklist, as required by the Board's air pollution regulations, and by not complying with the terms of its operating permit.

On August 9, 2012, the People and Bridgeport Grain 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). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Bridgeport Leader* on October 11, 2012. The Board did not receive any requests for hearing.

¹ All citations to the Act will be to the 2010 compiled statutes, unless the provision at issue has been substantively amended in the 2010 compiled statutes.

The Board grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2010); 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 Bridgeport Grain'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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Bridgeport Grain 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) (2010)), which may mitigate or aggravate the civil penalty amount. Bridgeport Grain agrees to pay a civil penalty of \$6,000. The People and Bridgeport Grain 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. Bridgeport Grain, Inc. (Bridgeport Grain) must pay a civil penalty of \$6,000 no later than December 17, 2012, which is the first business day following the 30th day after the date of this order. Bridgeport Grain 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 Bridgeport Grain's federal tax identification number must appear on the face of the certified check or money order.
3. Bridgeport Grain 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

Bridgeport Grain 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) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
5. Bridgeport Grain must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject matter of the complaint.

IT IS SO ORDERED.

Member J. O'Leary 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) (2010); *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 T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 15, 2012 by a vote of 4-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board