

ILLINOIS POLLUTION CONTROL BOARD
January 11, 2018

DAVID C. MILLER, MARK G. MILLER,)
LISA E. MILLER, MICHELLE A. PAGE,)
ANTHONY L. PAGE, RICHARD A.)
KINTER, STACY L. KINTER, WALTER G.)
FLESER, AND TAMMY JOHNSON,)
)
Complainants,)
)
v.) PCB 16-55
) (Citizen's Enforcement – Noise)
)
SUGAR CAMP ENERGY, LLC,)
)
Respondent.)

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

David C. Miller, Mark G. Miller, Lisa E. Miller, Michelle A. Page, Anthony L. Page, Richard A. Kinter, Stacy L. Kinter, Walter G. Fleser, and Tammy Johnson (collectively, complainants) filed this citizen's enforcement action alleging that Sugar Camp Energy, LLC violated a noise provision of the Board's regulations (35 Ill. Adm. Code 901.102) at its coal mine in Macedonia, Hamilton County. On January 21, 2016, the Board accepted the complaint for hearing.

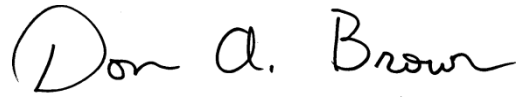
On December 11, 2017, David C. Miller and Sugar Camp filed a joint motion to voluntarily dismiss this action without prejudice, along with a stipulation that each party bear its own attorney's fees and costs. The joint motion states that Sugar Camp has permanently deactivated the noise's source.

The remaining complainants neither joined in the motion nor filed a response. Sugar Camp filed proof of service certifying that the remaining complainants were served the joint motion to voluntarily dismiss via email on December 11, 2017. The complainants previously consented to service via email. Miller v. Sugar Camp Energy, LLC, PCB 16-55 (Apr. 25, 2016) (Hearing Officer correspondence). By failing to file a response to the joint motion to dismiss within 14 days after service, the remaining complainants are deemed to have waived objection to granting the motion. *See* 35 Ill. Adm. Code 101.500(d).

The Board grants the joint motion for voluntary dismissal, dismisses the enforcement action without prejudice, and closes the docket. The Board also orders each party to bear its own costs and fees for this enforcement action.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 11, 2018, by a vote of 5-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, circular initial "D".

Don A. Brown, Clerk
Illinois Pollution Control Board.