

ILLINOIS POLLUTION CONTROL BOARD
October 17, 2013

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 14-19
) (Enforcement –Water)
WALSH CONSTRUCTION COMPANY, an)
Illinois Corporation,)
)
Respondent.)

ORDER OF THE BOARD (by D. Glosser):

On August 29, 2013, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Walsh Construction Company (respondent). The complaint concerns respondent’s work at a construction site located at the Chain of Rocks canal in Granite City, Madison County. Accompanying the complaint was a stipulation, proposal for settlement, and request for relief from the hearing requirement. The parties therefore seek to settle the complaint 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 (2012)), the Attorney General and the State’s Attorneys may bring actions before the Board to enforce Illinois’ environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2012); 35 Ill. Adm. Code 103. In Count I, the People allege that respondent violated section 12(a) of the Act, 415 ILCS 5/12(a) (2012) and Section 302.203 of the Board’s Water Pollution Regulations, 35 Ill. Adm. Code 302.203 by discharging drill slurry mix into the Chain of Rocks Canal in such a manner to cause or tend to cause water pollution. In Count II, the People allege that respondent violated section 12(d) of the Act, 415 ILCS 5/12(d) (2012) by discharging drill slurry mix down the bank of the Chain of Rocks Canal in such a manner as to create a thick, sticky fluid on the bank of the canal and a water pollution hazard. In Count III, the People allege that respondent violated section 12(f) of the Act, 415 ILCS 5/12(f) (2012) by discharging drill slurry mix down the bank and into the Chain of Rocks Canal without a National Pollutant Discharge Elimination System permit. The Board finds that the complaint meets the applicable content requirements of the Board’s procedural rules and accepts the complaint. *See* 35 Ill. Adm. Code 103.204(c).

On August 29, 2013, simultaneously with the People’s complaint, the People and respondent 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) (2012)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2012)), 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 Granite City Press Record on September 11, 2013. 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) (2012); 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 respondent'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) (2012)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Respondent 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) (2012)), which may mitigate or aggravate the civil penalty amount. Respondent agrees to pay a civil penalty of \$15,000. The People and respondent 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. Walsh Construction Company (respondent) must pay a civil penalty of \$15,000 no later than November 18, 2013, which is the first business day following the 30th day after the date of this order. Respondent 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 respondent's federal employer identification number must appear on face of the certified check or money order.
3. Respondent 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

Respondent 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) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
5. Respondent 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) (2012); *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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 17, 2013, by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board