

ILLINOIS POLLUTION CONTROL BOARD
November 7, 2019

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 20-16
) (Enforcement - Land)
IRONHUSTLER EXCAVATING, INC. an)
Illinois corporation, RIVER CITY)
CONSTRUCTION, LLC, an Illinois limited)
liability company, and VENOVICH)
CONSTRUCTION CO., an Illinois)
corporation,)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by B.F. Currie):

On September 16, 2019, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a seven-count complaint against Ironhustler Excavating, Inc. (Ironhustler), River City Construction, LLC (River City), and Venovich Construction Co. (Venovich Construction), (collectively, respondents). The complaint concerns a disposal site located at the end of King Road and along the Mackinaw River in Hopedale Township, Tazewell County. In a separate stipulation, the People and Venovich Construction now seek to settle without a hearing. Ironhustler and River City are not parties to this stipulation. For the reasons below, the Board accepts the stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2018)), 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 (2018); 35 Ill. Adm. Code 103.

In this case, the People allege that respondents violated: Section 21(a) of the Act, 415 ILCS 5/21(a) (2018), for open dumping waste; Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2018), for open dumping resulting in litter; Section 21(p)(4) of the Act, 415 ILCS 5/21(p)(4) (2018), for open dumping resulting in waste in standing or flowing water; Section 21(p)(7)(i) of the Act, 415 ILCS 5/21(p)(7)(i) (2018), for open dumping of demolition debris; Section 810.103 of the Board’s solid waste disposal regulations, 35 Ill. Adm. Code 810.103, for developing and operating a landfill without a permit; Section 812.101(a) of the Board’s solid waste disposal regulations, 35 Ill. Adm. Code 812.101(a), for developing and operating a landfill in violation of Board regulations; and Section 21(e) of the Act, 415 ILCS 5/21(e) (2018), for waste disposal at an improper site.

On September 16, 2019, the People and Venovich Construction 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) (2018)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2018)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without one. *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 Devlan Times* on September 25, 2019. The Board did not receive any requests for hearing. The Board grants the People and Venovich Construction's request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2018); 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. 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 Venovich Construction'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) (2018)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Venovich Construction 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) (2018)), which may mitigate or aggravate the amount of the civil penalty. Under the proposed settlement, Venovich Construction agrees to pay a civil penalty of \$2,500 within 30 days after the date of this order. The People and Venovich Construction 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.¹

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement between the People and Venovich Construction.
2. Venovich Construction must pay a civil penalty of \$2,500 by December 9, 2019, which is the first business day following the 30th day after the date of this order. Venovich Construction 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 number and case name must appear on the face of the certified check or money order.
3. Venovich Construction must submit payment of the civil penalty to:

Illinois Environmental Protection Agency
Fiscal Services Division

¹ The case against Ironhustler and River City continues. As the Board today accepts the stipulation and proposed settlement between the People and Venovich Construction, the caption of subsequent orders issued in this docket will not include Venovich Construction.

1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, Illinois 62794-9276

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

Raymond J. Callery
 Assistant Attorney General
 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) (2018)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2018)).
5. Venovich Construction 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) (2018); *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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
Venovich Construction Company Attn: Joseph L. Venovich, Jr. 2017 South Sampton Street P.O. Box 410 Tremont, IL 61568	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601

<p>Quinn Johnston Henderson and Pretorius Attn: Kenneth Eathington 227 N.E. Jefferson Street Peoria, IL 61602</p>	
<p>Davis and Campbell LLC Attn: Jay H. Scholl, William Campbell 401 Main Street, Suite 1600 Peoria IL 61602</p>	
<p>Raymond J. Callery Assistant Attorney General Environmental Bureau Illinois Attorney General's Office 500 South Second Street Springfield, Illinois 62706 rcallery@atg.state.il.us</p>	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 7, 2019, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board