



Board's regulations, Respondents also violated Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2018)) by conducting waste and storage disposal at the Site without a permit;

**Count V**—Respondents violated Section 21(e) of the Act (415 ILCS 5/21(e) (2018)) by storing, disposing, and abandoning waste at the Site;

**Count VI**—Respondents violated Section 808.121(a) of the Board's waste disposal regulations (35 Ill. Adm. Code 808.121(a)). By violating Section 808.121(a) of the Board's regulations, Respondents also violated Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2018)) by conducting waste and storage disposal at the Site without a permit;

**Count VII**—Respondents violated Section 722.111 of the Board's hazardous waste regulations (35 Ill. Adm. Code 722.11) by failing to test and evaluate the waste creosote-treated flooring blocks generated and dumped at the site. By violating Section 722.11 of the Board's regulations, Respondents also violated Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2018)) by conducting waste and storage disposal at the Site without a permit; and

**Count VIII**—Respondents violated Section 12(d) of the Act (415 ILCS 5/12(d) (2018)) by dumping heavily stained creosote-treated wood flooring blocks on the ground at the Site without providing any barrier to prevent creosote migration into storm sewers or groundwater underlying the Site thereby creating a water pollution hazard.

On January 21, 2020, the People and Bennett 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 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 *Rockford Register Star* on February 8, 2020. 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) (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 Bennett'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. Bennett 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) (2018)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, Bennett agrees to pay a civil penalty of \$12,500 within 30 days after the date of this order. The People and Bennett 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.<sup>1</sup>

**ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement. However, any modification of the stipulation and proposed settlement made by the parties will not be incorporated into this Board order and will not be enforceable under the Environmental Protection Act (415 ILCS 5 (2018)) unless accepted by the Board in a subsequent order.
2. Bennett must pay a civil penalty of \$12,500 by April 6, 2020, which is the first business day following the 30th day after the date of this order. Bennett 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, case name, and Bennett's federal employer identification number must appear on the face of the certified check or money order.
3. Bennett 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

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

Christopher J. Grant  
Illinois Attorney General's Office  
69 W. Washington, Suite 1800  
Chicago, Illinois 60602  
cgrant@atg.state.il.us

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)).

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<sup>1</sup> The case against Marino continues. As the Board today accepts the stipulation and proposed settlement involving the People and Bennett, the caption of subsequent orders issued in this docket will not include Bennett.


5. Bennett 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.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
Office of the Attorney General Attn: Christopher J. Grant 69 West Washington Street, Suite 1800 Chicago, IL 60602 cgrant@atg.state.il.us	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Vella and Lund Attn: Andrew J. Vella 401 West State Street, Suite 300 Rockford, IL 61101 vella_andrew@yahoo.com	
Marino Development LLC Attn: Mr. William Marino 4117 N. Lowell Avenue Chicago, IL 60641-1936 billymarino@gmail.com	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 5, 2020, by a vote of 4-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board