

ILLINOIS POLLUTION CONTROL BOARD
January 22, 2004

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 04-46
) (Enforcement - Air)
MARATHON ASHLAND PIPELINE, L.L.C.,)
a Delaware limited liability company,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

On October 3, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Marathon Ashland Pipeline, L.L.C. (Marathon Ashland Pipeline). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that Marathon Ashland Pipeline violated Sections 9(a) of the Environmental Protection Act (Act) (415 ILCS 5/9(a) (2002)) and 35 Ill. Adm. Code 215.121(b)(1) and 215.123(b)(1). The People further allege that Marathon Ashland Pipeline violated these provisions by the loss of 3,998 barrels of gasoline and emission of more than 470 tons of volatile organic material from the collapse of a floating roof tank roof, from not properly operating the tank roof, and from sorting gasoline without a vapor control device. The complaint concerns Marathon Ashland Pipeline's petroleum storage tank and pipeline facility at 5825 East Cumberland Road, Martinsville, Clark County.

On October 3, 2003, the People and Marathon Ashland Pipeline 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) (2002)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)). *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Guardian* on October 27, 2003. 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) (2002); 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 Marathon Ashland Pipeline'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) (2002)). The People and Marathon Ashland Pipeline have satisfied Section 103.302. Marathon Ashland Pipeline neither admits nor denies the alleged violations but agrees to pay a civil penalty of \$55,000. 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. Marathon Ashland Pipeline must pay a civil penalty of \$55,000 no later than February 22, 2004, which is the 30th day after the date of this order. Marathon Ashland Pipeline must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Marathon Ashland Pipeline's federal employer identification number must be included on the certified check or money order.
3. Marathon Ashland Pipeline must send the certified check or money order to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

4. Marathon Ashland Pipeline must simultaneously send a copy of the payment transmittal and certified check or money order to:

Donna Lutes
Office of the Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706

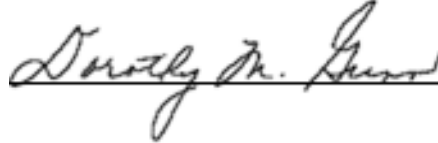
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
6. Marathon Ashland Pipeline must cease and desist from the alleged violations.

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) (2002); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 22, 2004 by a vote of 5-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board