

ILLINOIS POLLUTION CONTROL BOARD
January 7, 2021

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 20-8
) (Enforcement - Land)
JOHN KIRBY, an individual, and POLLY)
KIRBY, an individual,)
)
Respondents.)

ORDER OF THE BOARD (by C.M. Santos):

On August 14, 2019, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed an 11-count complaint against William Mucci and Debra Mucci d/b/a B&M Properties (Muccis) and John Kirby and Polly Kirby (Kirbys) (collectively, respondents). The complaint concerns property owned by Muccis and possessed under a purchase contract subject to conditions by Kirbys. The property is located adjacent to Illinois Route 71 north and south of N 2725 Road in Ottawa, LaSalle County.

On December 19, 2019, the Board accepted a settlement between the People and Muccis. The Board's order stated that "[t]he case against Kirbys continues." People v. Mucci and Kirby, PCB 20-8, slip op. at 2, n.1 (Dec. 19, 2019). The Board added that "the caption of subsequent orders will not include Muccis." *Id.*

The People and Kirbys – the remaining respondents - now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

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 alleged in Counts 1-8 that all of the original respondents violated Sections 21(a), 21(d)(1), 21(d)(2), 21(e), 21(p)(1), 21(p)(3), 21(p)(7), 55(a)(1), and 55(k)(1) of the Act (415 ILCS 5/21(a), 21(d)(1), 21(d)(2), 21(e), 21(p)(1), 21(p)(3), 21(p)(7), 55(a)(1), 55(k)(1) (2018)) and Section 812.101 of the Board's waste disposal regulations (35 Ill. Adm. Code 812.101) by causing or allowing the open dumping of waste resulting in litter, open burning, and deposition of general and demolition debris; causing or allowing the open dumping of waste tires; causing or allowing water to accumulate in waste tires; storing, disposing, and abandoning waste at a site not permitted for storage or disposal of waste; conducting waste

storage, treatment, and disposal without a permit; and developing and operating a waste storage and waste disposal facility without a development permit.

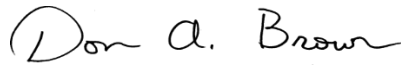
In Counts 9-11, the People also alleged that the Kirbys violated Sections 9(a), 9(c), and 55(a)(2) of the Act (415 ILCS 5/9(a), 9(c), 55(a)(2) (2018)) by causing, threatening, or allowing air pollution; the open burning of refuse; and the burning of waste tires.

On December 17, 2020, the People and Kirbys 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). Under the proposed stipulation, Kirbys do not affirmatively admit the alleged violations and agree to pay a civil penalty of \$6,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2018); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

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 7, 2021, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board