

ILLINOIS POLLUTION CONTROL BOARD  
September 7, 2023

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 24-5
	)	(Enforcement - Air)
HAWKINS, INC., a Minnesota corporation,	)	
d/b/a VERTEX CHEMICAL	)	
CORPORATION,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by M. Gibson):

On July 19, 2023, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Hawkins, Inc., doing business as Vertex Chemical Corporation (Vertex). The complaint concerns Vertex’s facility for manufacturing and distributing bleach, methanol-based windshield washer fluid, and antifreeze located at 3101 Carondolet Avenue, Dupon, St. Clair County. The parties now seek to settle 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 (2022)), the Attorney General and the State’s Attorneys may bring actions before the Board on behalf of the People to enforce Illinois’ environmental requirements. *See* 415 ILCS 5/31 (2022); 35 Ill. Adm. Code 103. In this case, the People allege that Vertex violated the Act and Board regulations as follows:

Count I: Section 9(b) of the Act, 415 ILCS 5/9(b) (2022), by operating emission units without having obtained the required operating permit from Illinois EPA.

Count II: Section 39.5(6)(b) of the Act, 415 ILCS 5/39.5(6)(b) (2022), by operating a major source without the requisite Clean Air Act Permit Program permit.

Count III: Section 9(a) of the Act, and Sections 201.302(a), and 254.132(a) of the Board’s Air Pollution Regulations, 415 ILCS 5/9(a) (2022), 35 Ill. Adm. Code 210.302(a), 254.132(a), by failing to timely submit annual emissions reports for the facility for the operating years 2011 through 2020 to Illinois EPA.

On July 19, 2023, simultaneously with the People’s complaint, the People and Vertex 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) (2022)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2022)), 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 *Belleville News-Democrat* on August 8, 2023. 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) (2022); 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 Vertex'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) (2022)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Vertex 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) (2022)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, Vertex agrees to pay a civil penalty of \$78,850 and avoided permit fees of \$21,150 within 30 days after the date of this order. The People and Vertex 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. Vertex must pay a civil penalty of \$78,850 and avoided permit fees of \$21,150 no later than October 10, 2023, which is the first business day following the 30th day after the date of this order. Vertex 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 and case number must appear on the certified check or money order.
3. Vertex 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

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

Kevin D. Barnai  
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) (2022)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2022)).
5. Vertex 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.

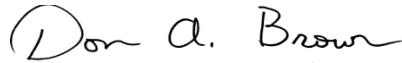
Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2022); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 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>
Illinois Attorney General's Office Attn: Kevin D. Barnai Assistant Attorney General Environmental Bureau 500 South Second Street Springfield, Illinois 62706 Kevin.Barnai@ilag.gov	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 E. Van Buren St., Suite 630 Chicago, Illinois 60605 don.brown@illinois.gov
Faegre Drinker Biddle & Reath LLP Corporation Attn: H. Max Kelln 300 N. Meridian Street, Suite 2500 Indianapolis, Indiana 46204 h.max.kelln@faegredrinker.com	

Hawkins, Inc. d/b/a Vertex Chemical Corporation Attn: Graham Mahal 2381 Rosegate Roseville, MN 55113	
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Hawkins, Inc. d/b/a Vertex Chemical Corporation Attn; Ryan Giacoletto 3101 Carondolet Avenue Dupo, IL 62239	
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I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on September 7, 2023, by a vote of 4-0.



Don A. Brown, Clerk  
Illinois Pollution Control Board