

causing, threatening, or allowing the discharge or contaminants from a concentrated animal feeding operation to waters of the State without a valid NPDES permit.

Count IV: Section 12(a) of the Act (415 ILCS 5/12(a) (2022)) and Sections 302.203 and 304.105 of the Board's water pollution rules (35 Ill. Adm. Code 302.203, 304.105) by causing or allowing the discharge of livestock waste into a water of the State, resulting in the water's unnatural color, odor, and turbidity and causing offensive conditions.

Count V: Section 12(a) of the Act (415 ILCS 5/12(a) (2022)) and Sections 302.212(a) and 304.105 of the Board's water pollution rules (35 Ill. Adm. Code 302.212(a), 304.105) by allowing the release of livestock waste to an unnamed tributary of Panther Creek causing total ammonia nitrogen exceeding 15 mg/L in violation of the water quality standard.

Count VI: Section 12(a) of the Act (415 ILCS 5/12(a) (2022)) and Sections 501.401(e), 501.403(b), and 501.404(c)(3) of the Board's agriculture-related pollution rules (35 Ill. Adm. Code 501.401(e), 501.403(b), 501.404(c)(3)) by failing to maintain adequate livestock waste storage capacity so as to prevent overflows.

On August 7, 2023, simultaneously with the People's complaint, the People and the Respondents 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 *Hancock County Journal-Pilot* on August 23, 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 the Respondent'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. The Respondents do 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, Deer View agrees to pay a civil penalty of \$9,000 and Respondent PSM agrees to pay a civil penalty of \$15,000. The People and the Respondents 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. Deer View must pay a civil penalty of \$9,000 and PSM must pay a civil penalty of \$15,000 no later than Monday, November 6, 2023, which is the first business day following the 30th day after the date of this order. The Respondents must pay the civil penalties 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. The Respondents must submit payment of the civil penalties to:

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

The Respondents must send a copy of the certified checks or money orders and any transmittal letters 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. The Respondents 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.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
Illinois Attorney General's Office Attn: Kevin D. Barnai, Asst. Atty. 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
Brown, Hay & Stephens, LLP Attn: Claire Manning 205 S. Fifth Street Springfield, IL 62704 cmanning@bhslaw.com	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on October 5, 2023, by a vote of 4-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board