

ILLINOIS POLLUTION CONTROL BOARD
January 18, 2001

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
) PCB 01-92
MARATHON OIL COMPANY,) (Enforcement - Public Water Supply)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

On December 11, 2000, the People of the State of Illinois (People) filed a two-count complaint against respondent Marathon Oil Company (Marathon), a gasoline station operator. The complaint alleges Marathon caused or allowed violations of groundwater quality standards and failed to implement a corrective action plan at its facility located at 200 West Edwards Street, Springfield, Sangamon County, Illinois. These activities were in alleged violation of Sections 12(a) and (d) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), (d) (1998)) and the Board's groundwater quality and waste disposal regulations at 35 Ill. Adm. Code 620.115, 620.302(c), 620.405, 620.410(c), 620.420(c), and 731.166(c).

Also on December 11, 2000, the parties filed a joint stipulation and proposal for settlement, accompanied by a motion requesting relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (1998)). Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (1998)), the Board caused publication of the required newspaper notice of the stipulation and proposal for settlement and request for relief from the hearing requirement. The notice appeared in *The State Journal Register* on December 15, 2000. The Board did not receive any requests for hearing. Accordingly, the Board grants a waiver from the hearing requirement.

The stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. Marathon neither admits nor denies the allegations, but agrees to pay a civil penalty of \$22,000.

The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. Marathon must continue to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's regulations.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and Marathon Oil Company (Marathon). The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. Marathon must pay a civil penalty of \$22,000. Payment must be made within 30 days of the date of this order, that is, on or before February 17, 2001. Such payment must be made by company check payable to the Treasurer of the State of Illinois, for deposit in the Environmental Protection Trust Fund. The case number, case name, and Marathon's federal employer identification number 25-1410539 must also be included on the company check and clearly indicate that payment is directed to the Environmental Protection Trust Fund.

3. The check or money order must be sent by first class mail to:

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

A copy of the payment transmittal and check shall be simultaneously submitted to:

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

4. Any such penalty not paid within the time prescribed incurs interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003 (1998)), as now or hereafter amended, from the date payment is due until the date payment is received. Interest does not accrue during the pendency of an appeal during which payment of the penalty has been stayed.
5. Marathon must cease and desist future alleged violations of any federal, State, or local statutes and regulations.
6. Within 270 days from the date of this order, that is, on or before October 15, 2001, Marathon must submit to the Agency an amended corrective action completion report (CACR) or an addendum to its previously submitted CACR for the site. If Marathon is unable to submit such amended CACR or addendum

within such timeframe, Marathon may request, in writing, an extension of time from the Agency. The Agency may, in its reasonable discretion, grant such extension request.

7. If the Agency rejects the amended CACR or the addendum to the CACR, Marathon must, within 90 days or such longer period as determined by the Agency, submit a revised CACR which satisfactorily addresses all of the comments set forth in the Agency's rejection letter.
8. Upon approval of a CACR by the Agency, the Agency must issue a No Further Remediation (NFR) letter to Marathon. Within 45 days of its receipt of the NFR letter, Marathon must record the NFR letter with the Sangamon County Recorded of Deeds.
9. In consideration of Marathon's undertakings outlined above and its payment of the penalty as set forth above and, except as specifically provided below, the State covenants not to sue or to take administrative action against Marathon, its successors, parent subsidiaries, affiliates and assigns, and their respective officers, employees, and agents for covered matters.
10. Covered matters are limited to any claim or claims arising out of, in connection with, related to, or concerning any violations of the Act (415 ILCS 5/1 *et seq.* (1998)), and the regulations promulgated thereunder, as alleged or asserted in the complaint. The People also covenants that it will not sue or take administrative action under federal law for such claims and matters. This covenant not to sue is conditioned upon the complete and satisfactory performance by Marathon of its obligations under the stipulation and proposal for settlement. The covenant not to sue does not pertain to any other matters. The People reserve the right and this order is without prejudice to all rights against Marathon with respect to all other matters, including but not limited to, the following:
 - a. Criminal liability;
 - b. Claims based upon a failure by Marathon to meet the requirements of this order;
 - c. Liability for future violation of State, local, federal, and common laws and/or regulations; and
 - d. Natural resource damages.
11. Except as provided above, this order is in no way to be construed as or deemed to be evidence of any admission of fact or law, or wrongdoing by Marathon.

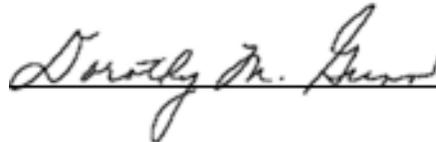
Except as provided above, it must not be introduced for any purpose in any court or administrative body without written approval of the other party.

12. Any dispute regarding the stipulation and proposal for settlement and its terms, any application, plan, record or report required thereunder, or with respect to any party's compliance herewith or any delay thereunder shall in the first instance be the subject of informal negotiations between the parties. If the parties cannot resolve the dispute within 30 days, each party may pursue any available remedy.
13. Any failure by Marathon to comply with any requirements of the stipulation and proposal for settlement shall not be a violation if such failure is the result of actions by persons or events beyond the reasonable control of Marathon, including, but not restricted to, acts of God, acts of other parties, fires, floods, strikes, freight embargoes, or delays of contractors due to such causes. When, in the opinion of Marathon, circumstances have occurred which cause or may cause violation of any provision of the stipulation and proposal for settlement, Marathon must notify the Agency in writing as soon as practicable, but not later than 30 calendar days after obtaining knowledge of the occurrence of the event giving rise to such claim. Increased costs associated with implementing the measures required by the stipulation and proposal for settlement must not, by themselves, excuse Marathon from a failure to comply under the provisions of this paragraph.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.520, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 18th day of January 2001 by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board