## ILLINOIS POLLUTION CONTROL BOARD January 6, 2022

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	)	
v.	)	PCB 17-19 (Enforcement - Water)
CRANBROOK FARMS, LLC, an Illinois limited liability corporation,	)	(Emorcement - water)
Respondent.	) )	

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

On December 30, 2021, the parties filed an agreed modification to a stipulation and settlement the Board had accepted on May 21, 2020. For the reasons below, the Board directs the Clerk to publish notice of the parties' proposed modifications.

On November 22, 2016, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Cranbrook Farms, LLC (Cranbrook). The complaint concerns Cranbrook's swine wean-to-finish facility located at 21334 Illinois Highway 78 in Annawan, Henry County. The People alleged that Cranbrook violated Sections 12(a) and 12(d) of the Act (415 ILCS 5/12(a), (d) (2014)), and Section 501.404(c)(2) of the Board's agriculture-related pollution regulations (35 Ill. Adm. Code 501.404(c)(2)). The People alleged that Cranbrook violated these provisions by causing or threatening water pollution, depositing livestock waste so as to create a water pollution hazard, and failing to make impermeable or seal its livestock waste storage lagoon to prevent groundwater and surface water pollution.

On March 20, 2020, the parties filed a stipulation and proposed settlement (Stip.). See 415 ILCS 5/31(c) (2020). In the proposed settlement, Cranbrook did not affirmatively admit the alleged violations but agreed to pay a civil penalty of \$1,500. The proposed settlement included provisions for future compliance, including deadlines to dewater and remove manure sludge and solids from specified lagoons. See Stip. at 11-13. The proposed settlement also included language providing that "[t]he Parties to the Stipulation may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation." Stip. at 16.

On May 21, 2020, the Board accepted the parties' proposed settlement. In its order, the Board noted that "the parties agreed to language allowing them to modify the stipulation and proposed settlement." People v. Cranbrook Farms, PCB 17-19, slip op. at 2 (May 21, 2020). The Board then stated that "any modification made by the parties and not accepted by the Board in a subsequent Board order is not enforceable under the Act." *Id.*, citing People v. Reliable Materials Lyons, PCB 12-52, slip op. at 2 (Aug. 21, 2014).

On December 30, 2021, the parties filed an "Agreed First Modification to Stipulation and Proposal for Settlement" (Mod.), accompanied by a motion (Mot.) for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2020)). The motion is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2020)), 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 III. Adm. Code 103.300(a).

The motion for relief from the hearing requirement states that the parties have agreed "to modify the future compliance activities completion dates enumerated in the Stipulation." Mot. at 1; *see* Modif. at 1. In their agreed modification, the parties first propose to revise Section V.D, Future Compliance. Under subsection (1) entitled "South Farm," the parties proposed revising subsections (c) and (d) and adding subsection (e) as follows:

- (c) By January 1, <u>2023</u><del>2022</del>, Respondent shall complete the dewatering and removal of all manure sludge and solids from the South Lagoon and the North Lagoon on the South Farm per Illinois EPA oversight and approval as follows:
  - i) Beginning as of the date the Board adopts and accepts this Stipulation, Respondent shall provide monthly written and photographic documentation of its progress to the Illinois EPA, within 10 days of the end of each month; and
  - ii) at least two (2) weeks prior to sludge removal, Respondent shall notify the Illinois EPA of sludge removal; and
- (d) By February 1, 20232022, Respondent shall submit a final report, including a written description and photographic evidence, to the Illinois EPA that demonstrates Respondent has completed the activities required by paragraph V.D.2.c.
- In the alternative, by February 1, 2023, Respondent may submit to the Illinois

  EPA a site evaluation report for one or both lagoons that provides an estimate of
  the total amount of nitrogen remaining in the manure sludge and that evaluates the
  potential for causing an exceedance of the Class II groundwater quality standard
  of 100mg/L of nitrate (35 Ill. Admin. Code 620.420(a)(1)). The sampling and
  calculations for the site evaluation report must be conducted by a qualified third
  party. The site evaluation report must include analyses of at least four
  representative samples from each lagoon being evaluated for the following
  nitrogen parameters: ammonia, organic nitrogen, TKN, and nitrate/nitrite. Upon
  receipt of a site evaluation report, the Illinois EPA will review the document. If
  the Illinois EPA concurs that the site evaluation report demonstrates that a
  pollution threat to groundwater is no longer present, Illinois EPA will issue a
  written determination to the Respondent that no further sludge removal is required
  for the subject lagoon(s). Modif. at 2.

The parties also propose to revise Section V.F entitled "Correspondence, Reports, and Other Documents" by adding contact information for the representative of the respondent. Modif. at 2. The parties state that, "[e]xcept as modified herein, all of the other provisions of the Stipulation remain in full force and effect." Modif. at 3.

Unless the Board determines that a hearing is needed, the Board must cause notice of the proposed modification of the stipulation and proposed settlement and the motion for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days. 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 6, 2022, by a vote of 5-0.

Don A. Brown, Clerk

Illinois Pollution Control Board

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