

ILLINOIS POLLUTION CONTROL BOARD
August 17, 2023

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|----------------------------------|---|---------------------|
| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 23-128 |
| |) | (Enforcement - Air) |
| SWAN SURFACES, LLC, a Delaware |) | |
| limited liability company, |) | |
| |) | |
| Respondent. |) | |

OPINION AND ORDER OF THE BOARD (by B.F. Currie):

On June 12, 2023, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed an eleven-count complaint against Swan Surfaces, LLC (Swan). The complaint concerns Swan’s solid surfaces manufacturing facility located at 200 Swan Avenue in Centralia, Marion 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 Swan violated the Act and Board Air Pollution Regulations as follows:

- Count I: By failing to timely submit complete and accurate annual emissions reports (AERs) for 2018, 2019 and 2020 in violation of Sections 201.302(a) and 254.132(a) of the Board Air Pollution Regulations (35 Ill. Adm. Code 201.302(a), 254.132(a)), respondent thereby violated Section 9(a) of the Act (415 ILCS 5/9(a) (2020)).
- Count II: By failing to perform the Method 22 opacity observations for the stacks associated with the compound production and compression molding operations, the stacks and vents associated with solvent cleaning and recovery operations, and the chip grinding, fabrication shop, rectangular bins/cages and cylindrical vessels, and by failing to produce records and comply with the monitoring and recordkeeping requirements of Conditions 4.1.2(a)(ii)(A) and (B), 4.2.2(a)(ii)(A) and (B) and 4.3.2(a)(ii)(A) and (C) of Clean Air Act Permit Program (CAAPP) Permit 99010001 for 2018, 2019 and 2020, respondent thereby violated Section 39.5(6)(a) of the Act (415 ILCS 5/39.5(6)(a) (2020)).
- Count III: By failing to conduct weekly inspections of the dust collectors, carbon absorbers, PM filters and carbon exhaust systems associated with the compound production

and compression molding operations, and Dust Collectors 3, 4, 5, 6, 12, 13, 15, 16, 18 and 20, and by failing to produce records and comply with the inspection and recordkeeping requirements of Conditions 4.1.2(b)(ii)(A) and (B) and 4.3.2(a)(ii)(B) and (E)(1) of CAAPP Permit 99010001 for 2018, 2019, 2020 or 2021, respondent thereby violated Section 39.5(6)(a) of the Act (415 ILCS 5/39.5(6)(a) (2020)).

- Count IV: By failing to keep and maintain records of repair of Dust Collectors 3, 4, 5, 6, 12, 13, 15, 16, 18 and 20 performed during 2018, 2019, 2020 or 2021 in violation of Condition 4.3.2(a)(ii)(E)(II) of CAAPP Permit 99010001, respondent thereby violated Section 39.5(6)(a) of the Act (415 ILCS 5/39.5(6)(a) (2020)).
- Count V: By failing to keep and maintain records of monthly compliance inspections and verifications of compliance with the work practice standards of Subpart WWWW of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for the years of 2018, 2019, 2020 or 2021, and failing to ensure compliance with the NESHAP work practice standards as required by Sections 63.5805(b) and 63.5915(d) of Subpart WWWW of the NESHAP (40 C.F.R. § 63.5805(b), 63.5915(d)), and Conditions 4.1.2(d)(ii)(A)(II) and 4.1.2(d)(ii)(C)(II) of CAAPP Permit 99010001, respondent thereby violated Sections 9.1(d)(1) and 39.5(6)(a) of the Act (415 ILCS 5/9.1(d)(1), 39.5(6)(a) (2020)).
- Count VI: By failing to keep a maintenance log for covers on vats, vessels and tanks detailing maintenance work performed during 2018, 2019, 2020 or 2021 in violation of Condition 4.1.2(d)(ii)(C)(III) of CAAPP Permit 99010001, respondent thereby violated Section 39.5(6)(a) of the Act (415 ILCS 39.5(6)(a) (2020)).
- Count VII: By failing to submit to the IEPA semi-annual compliance reports detailing compliance with the provisions of Subpart WWWW of the NESHAP, as required by Section 63.5910(b)(3) of Subpart WWWW of the NESHAP and Conditions 4.1.5(b)(ii)(A) - (C) of CAAPP Permit 99010001, respondent thereby violated Section 39.5(6)(a) of the Act (415 ILCS 39.5(6)(a) (2020)).
- Count VIII: By failing to timely submit to the IEPA semi-annual Compliance Assurance Monitoring (CAM) reports for 2020 and failing to comply with the monitoring requirements of its CAM plan application in violation of Conditions 4.3.2(a)(ii)(F) and 7.4(c) of CAAPP Permit 99010001, respondent thereby violated Section 39.5(6)(a) of the Act (415 ILCS 39.5(6)(a) (2020)).
- Count IX: By failing to submit to the IEPA deviation reports in violation of Conditions 4.1.5(a)(ii), 4.2.5(a)(ii), and 4.3.5(a)(ii) of CAAPP Permit 99010001, respondent thereby violated Section 39.5(6)(a) of the Act (415 ILCS 39.5(6)(a) (2020)).

- Count X: By failing to timely submit to the IEPA complete and accurate annual compliance certifications for 2018, 2019 and 2020 in violation of Section 39.5(7)(p)(v)(C) of the Act and Condition 2.6(a) of CAAPP Permit 99010001, respondent thereby violated Sections 39.5(6)(a) and 39.5(7)(p)(v)(C) of the Act (415 ILCS 39.5(6)(a), 39.5(7)(p)(v)(C) (2020)).
- Count XI: By failing to submit to the IEPA complete and accurate semi-annual monitoring reports for 2020 in violation of Condition 3.5(b) of CAAPP Permit 99010001, respondent thereby violated Section 39.5(6)(a) of the Act (415 ILCS 39.5(6)(a) (2020)).

On June 12, 2023, simultaneous with the People's complaint, the People and Swan 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 *Centralia & Mount Vernon Sentinels* on July 12, 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 Swan'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. Swan admits 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, Swan agrees to pay a civil penalty of \$75,000 within 30 days after the date of this order. The People and Swan 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. Swan must pay a civil penalty of \$75,000 no later than September 18, 2023, which is the first business day following the 30th day after the date of this order. Swan 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. Swan 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

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

Christina Nannini, AAG
Office of Illinois Attorney General
500 South Second Street
Springfield, Illinois 62706

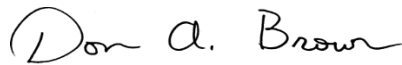
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2022)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2022)).
5. Swan must cease and desist from future violations 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 |
| Swan Surfaces LLC Jason Myer 200 Swan Avenue Centralia, Illinois 62801 | Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 E. Van Buren St., Suite 630 Chicago, Illinois 60605 don.brown@illinois.gov |
| Christina Nannini, AAG Office of Illinois Attorney General 500 South Second Street Springfield, Illinois 62706 Christina.nannini@ilag.gov | |

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 17, 2023, by a vote of 3-0.



Don A. Brown, Clerk
Illinois Pollution Control Board