

ILLINOIS POLLUTION CONTROL BOARD
November 2, 2023

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 22-34
)	(Enforcement - Water)
CITY OF HOOPESTON, an Illinois municipal)	
corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by M. Gibson):

On January 13, 2022, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against the City of Hoopeston (City). The complaint concerns the City's publicly-owned treatment works located at South Sixth Avenue in Hoopeston, Vermilion County (facility). On February 15, 2022, the City filed a motion to dismiss the complaint. The People filed seven motions for extension of time to respond to the City's motion to dismiss. 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 the City violated the Act and Board regulations as follows:

Count I: Section 12(f) of the Act (415 ILCS 5/12(f) (2022)) and Section 309.102(a) and 309.104(a) of the Board's National Pollutant Discharge Elimination System (NPDES) Regulations (35 Ill. Adm. Code 309.102(a), 309.104(a)) by causing, threatening, or allowing the discharge of a contaminant into waters of the State.

Count II: Section 12(f) of the Act (415 ILCS 5/9(a) (2022)), Section 305.102(b) and 309.102(a) of the Board's NPDES Regulations (35 Ill. Adm. Code 305.102(b), 309.102(a)), and Special Conditions 14 and 15 of the City's NPDES Permit by causing, threatening, or allowing the discharge of a contaminant into waters of the State.

On August 16, 2023, the People and the City 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

Independent News on September 27, 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 City'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 City 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, the City agrees to pay a civil penalty of \$500 within 30 days after the date of this order. The People and the City 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. The City must pay a civil penalty of \$500 no later than December 4, 2023, which is the first business day following the 30th day after the date of this order. The City 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. The City 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

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

Kevin D. Bonan
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
500 South 2nd Street

Springfield, Illinois 62706

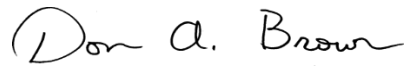
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2022)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2022)).
5. The City must cease and desist from future violations 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. Bonan Assistant Attorney General 500 South 2nd Street Springfield, Illinois 62706kevin.bonin@ilag.gov	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 East Van Buren Street, Suite 630 Chicago, Illinois 60605 don.brown@illinois.gov
David K. Cox Attorney for Respondent 110 North Charter Street Monticello, Illinois 61856 mayorcox@cox-lawfirm.com	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 2, 2023, by a vote of 4-0.

A handwritten signature in cursive script that reads "Don A. Brown". The letters are fluid and connected, with a large initial "D" and "B".

Don A. Brown, Clerk
Illinois Pollution Control Board