

ILLINOIS POLLUTION CONTROL BOARD  
March 15, 2012

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 12-13  
) (Enforcement - Water)  
KNIGHT HAWK COAL, LLC, a Virginia )  
limited liability company, )  
)  
Respondent. )

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On July 12, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Knight Hawk Coal, LLC (Knight Hawk). The complaint concerns Knight Hawk’s “Creek Paum Mine North” site located in Ava, Jackson 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 (2010)), 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 (2010); 35 Ill. Adm. Code 103. In this case, the People allege in count I of the complaint that on specified dates in 2008, Knight Hawk violated the following provisions in the manner described: Section 304.141 of the Board’s water pollution regulations (35 Ill. Adm. Code 304.141) by discharging effluent with levels of total suspended solids (TSS) and iron in excess of limits in Knight Hawk’s National Pollutant Discharge Elimination System (NPDES) permit IL0077381; Section 12(a) of the Act (415 ILCS 5/12(a) (2010)) by causing, threatening, or allowing the discharge of effluent with excess levels of TSS, iron, or acidity/alkalinity into the environment so as to cause or tend to cause water pollution or so as to violate Board regulations; and Section 12(f) of the Act (415 ILCS 5/12(f) (2010)) by causing, threatening, or allowing the discharge of effluent with levels of TSS, iron, or acidity/alkalinity in excess of Knight Hawk’s NPDES permit limits.

The People allege in count II of the complaint that on specified dates in 2008, 2009, and 2010, Knight Hawk violated the following provisions in the manner described: Section 304.141 of the Board’s water pollution regulations (35 Ill. Adm. Code 304.141) by discharging effluent with levels of TSS, iron, sulfate, or settleable solids in excess of Knight Hawk’s NPDES permit limits; Section 12(a) of the Act (415 ILCS 5/12(a) (2010)) by causing, threatening, or allowing the discharge of effluent with excess levels of TSS, iron, sulfate, settleable solids, pH, or acidity/alkalinity into the environment so as to cause or tend to cause water pollution or so as to violate Board regulations; and Section 12(f) of the Act (415 ILCS 5/12(f) (2010)) by causing, threatening, or allowing the discharge of effluent with levels of TSS, iron, sulfate, settleable solids, pH, or acidity/alkalinity in excess of Knight Hawk’s NPDES permit limits.

On December 19, 2011, the People and Knight Hawk 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) (2010)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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 *Murphysboro American* on January 12, 2012. 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) (2010); 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 Knight Hawk'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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Knight Hawk does not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2010)), which may mitigate or aggravate the civil penalty amount. Knight Hawk agrees to pay a civil penalty of \$14,750. The People and Knight Hawk 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. Knight Hawk must pay a civil penalty of \$14,750 no later than April 16, 2012, which is the first business day following the 30th day after the date of this order. Knight Hawk 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, case number, and Knight Hawk's federal tax identification number must appear on the face of the certified check or money order.
3. Knight Hawk 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

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

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) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
5. Knight Hawk 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) (2010); *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.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 15, 2012, by a vote of 5-0.



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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board