

ILLINOIS POLLUTION CONTROL BOARD
June 7, 2012

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB No. 12-122
) (Enforcement)
DOUGLAS SCHROEDER,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by T.A. Holbrook):

On April 23, 2012, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Douglas Schroeder (Schroeder). The complaint concerns Schroeder’s farming property at 1303 E. Walnut Creek, Mahomet, Champaign County. Also on April 23, 2012, the parties filed a stipulation and proposed settlement and a motion for relief from the hearing requirements. On May 3, 2012, the Board accepted the complaint and directed the Clerk to cause notice of the proposed settlement to be published. For the reasons below, the Board accepts the parties’ stipulation and proposed settlement.

In addition, on May 21, 2012, the People moved for leave to amend the complaint and stipulation filed in this matter (Mot.). The motion states that “[d]ates included with the factual allegations were inadvertently stated as 2011 dates. In fact, they were 2010 dates.” Mot. at 1. The motion lists five corrections relating to dates. *Id.* at 1-2. The motion also indicates that respondent does not object to the granting of the Motion. The Board grants leave to amend the complaint and stipulation and proposal and orders that it be so amended.

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 that Schroeder violated Sections 12(a) and (d), Section 21(a), 21(d)(1), Section 21(e), and Section 21(p)(1) of the Act (415 ILCS 5/12(a), (d), 21(a), (d)(1), (e), and (p)(1) (2010)). According to the complaint, Schroeder violated these provisions by causing or allowing decaying soybeans to come in contact with waters of the State so as to create or likely create a nuisance and has caused or tended to cause water pollution in Illinois, by depositing contaminants upon the land in such a place and manner as to create a water pollution hazard, by causing or allowing the open dumping of refuse and waste, by disposing soybeans and storing soybeans as a waste without a permit and on a location unauthorized pursuant to the Board’s regulations, and by causing or allowing the open dumping of waste in a manner that has resulted in litter at the dump site.

On April 23, 2012, the People and Schroeder 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 Mahomet Citizen* on May 10, 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 Schroeder'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. Schroeder 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. Schroeder agrees to pay a civil penalty of \$3,000.00. The People and Schroeder 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. Schroeder must pay a civil penalty of \$3,000.00 no later than July 9, 2012, which is the first business day following the 30th day after the date of this order. Schroeder 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 Schroeder's federal tax identification number must appear on the face of the certified check or money order.
3. Schroeder 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

Schroeder 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. Schroeder 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 order on June 7, 2012 by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board