

pollution regulations (35 Ill. Adm. Code 406.202), and Special Condition 1 of its NPDES permit by discharging a “mine discharge” violating the standards at Part 302 of the Board’s regulations (35 Ill. Adm. Code 302);

Count V—Violated Section 12(a) of the Act (415 ILCS 5/12(a) (2016)) and Section 406.107 of the Board’s mine-related water pollution regulations (35 Ill. Adm. Code 406.107) by discharging a contaminant to a nearby tributary resulting in an “offensive discharge”;

Count VI—Violated Section 12(f) of the Act (415 ILCS 5/12(f) (2016)), Section 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 309.102(a)), and Standard Condition 5 and the alkaline mine drainage effluent limitations of its NPDES permit by discharging slurry solids and acid mine drainage liquids through Outfall 002 exceeding the scope of its permit;

Count VII—Violated Section 12(f) of the Act (415 ILCS 5/12(f) (2016)), Sections 305.102(a) and (b) and 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 305.102(a), (b), 309.102(a)), and Standard Conditions 12(b), 13(c)(1), and 13(d) of its NPDES Permit by intentionally diverting a waste stream from its treatment facility constituting a “bypass” without prior notice to and approval by the Illinois Environmental Protection Agency (Agency) and without submitting a report to the Agency regarding the quantity of wastes bypassed; and

Count VIII—Violated Section 12(f) of the Act (415 ILCS 5/12(f) (2016)), Section 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 309.102(a)), and Standard Condition 27 of its NPDES permit by failing to observe good mining practices by inadequately maintaining and controlling on-site waters exposed to disturbed materials, resulting in an unpermitted mine discharge.

On March 28, 2019, the People and Williamson Energy 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) (2016)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2016)), 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 Marion Republican* on April 16, 2019. 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) (2016); 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 Williamson Energy’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) (2016)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Williamson

Energy does not admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2016)), which may mitigate or aggravate the civil penalty amount. Williamson Energy agrees to pay a civil penalty of \$80,000. The People and Williamson Energy 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. Williamson Energy must pay a civil penalty of \$80,000 no later than Monday, July 1, 2019, which is the first business day following the 30th day after the date of this order. Williamson Energy 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 face of the certified check or money order.
3. Williamson Energy 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

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

Kevin D. Bonin, Assistant Attorney General
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) (2016)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2016)).
5. Williamson Energy 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.

Member B.K. Carter abstained.

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) (2016); *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. Bonin 500 South 2nd Street Springfield, Illinois 62706 kbonin@atg.state.il.us	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601 don.brown@illinois.gov
Williamson Energy, LLC Attn: Nicholas S. Johnson Baily & Glasser LLP 1054 31st Street, N.W. Washington, DC 20007 NJohnson@bailyglasser.com	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 30, 2019 by a vote of 3-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board