## ILLINOIS POLLUTION CONTROL BOARD November 7, 2019

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	)	
v.	)	PCB 20-17
MOR-AGRA GRAIN HANDLING, INC., an Illinois corporation,	) ) )	(Enforcement - Air)
Respondent.	) )	

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

On September 17, 2019, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Mor-Agra Grain Handling, Inc. (Mor-Agra). The complaint concerns Mor-Agra's grain elevator located at 102 North State Street, Poplar Grove in Boone 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 (2018)), 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 (2018); 35 Ill. Adm. Code 103. In this case, the People allege that Mor-Agra violated Section 9(a) of the Act, 415 ILCS 5/9(a)(2018), and Section 201.302(a) of the Board air pollution regulations, 35 Ill. Adm. Code 201.302(a), by failing to submit an Annual Emissions Report (AER) by May 1 of the year following the calendar year in which the emissions took place as required. Additionally, the People allege that Mor-Agra violated Section 254.132(a) of the Illinois Environmental Protection Agency's air pollution regulations, 35 Ill. Adm. Code 254.132(a), by failing to submit an AER as required if emission sources at a facility are capable of emitting particulate matter. Further, the People allege Mor-Agra violated Section 31(a)(7.6) of the Act, 415 ICLS 5/31(a)(7.6)(2018), by violating the compliance commitment agreement.

On September 17, 2019, the People and Mor-Agra 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) (2018)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2018)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without one. 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 Boone County Journal on October 11, 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) (2018); 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 Mor-Agra'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) (2018)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Mor-Agra 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) (2018)), which may mitigate or aggravate the amount of the civil penalty. Under the proposed settlement, Mor-Agra agrees to pay a civil penalty of \$500 within 30 days after the date of this order. The People and Mor-Agra 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. Mor-Agra must pay a civil penalty of \$500 no later than December 9, 2019, which is the first business day following the 30th day after the date of this order. Mor-Agra 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. Mor-Agra 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

Mor-Agra must send a copy of the certified check, money order and any transmittal letter to:

Ellen F. O'Laughlin - Assistant Attorney General Environmental Bureau Illinois Attorney General's Office 69 W. Washington Street, Suite 1800 Chicago, Illinois 60602

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2018)) at the rate

set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2018)).

5. Mor-Agra must cease and desist from future violations of the Environmental Protection Act, Board regulations, and Illinois Environmental Protection Agency 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) (2018); 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		
Mor-Agra Grain Handling, Inc.			
Attn: Valerie Levoy	Illinois Pollution Control Board		
P.O. Box 370	Attn: Don A. Brown, Clerk		
Poplar Grove, IL 61065	James R. Thompson Center		
valerielevoy@moragra.com	100 West Randolph Street, Suite 11-500		
Office of the Illinois Attorney General	Chicago, Illinois 60601		
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69 W. Washington Street, Suite 1800			
Chicago, IL 60602			
eolaughlin@atg.state.il.us			

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 7, 2019 by a vote of 4-0.

Don A. Brown, Clerk

Illinois Pollution Control Board

Don a. Brown