

ILLINOIS POLLUTION CONTROL BOARD
September 17, 2020

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 20-98
) (Enforcement - Land)
AUX SABLE LIQUID PRODUCTS, INC., a)
Delaware corporation, AUX SABLE LIQUID)
PRODUCTS LP, a Delaware limited)
partnership, CLEAN HARBORS)
ENVIRONMENTAL SERVICES, INC., a)
Massachusetts corporation, and WASTE)
MANAGEMENT OF ILLINOIS, INC., a)
Delaware Corporation,)
)
Respondents.)

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

On June 30, 2020, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a six-count complaint against Aux Sable Liquid Products, Inc., Aux Sable Liquid Products LP (collectively Aux Sable respondents), Clean Harbors Environmental Services, Inc. (Clean Harbors), and Waste Management of Illinois, Inc. (Waste Management) (collectively respondents). The complaint concerns the disposal of contaminated molecular sieve material from Aux Sable Liquid Products LP's natural gas liquids extraction and fractionation facility located at 6155 East State Route 6 in Morris, Grundy County, and at Waste Management's waste disposal facility located at 21233 West Laraway Road in Joliet, Will County. Clean Harbors transported the contaminated molecular sieve material to Waste Management's waste disposal facility. The People, Clean Harbors and Waste Management now seek to settle without a hearing.¹ For the reasons below, the Board accepts the stipulation and proposed settlement of the People, Clean Harbors and Waste Management.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2018)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2018); 35 Ill. Adm. Code 103. In this case, the People allege that respondents² violated the following authorities:

¹ In a separate order, also adopted on September 17, 2020, the Board accepts a proposed settlement, stipulation and motion for relief from hearing between the People and the remaining respondents in this matter, i.e., the Aux Sable respondents.

² The remaining counts (Counts I and III) allege violations by the Aux Sable respondents.

Count II—Improper disposal of hazardous waste by Clean Harbors in violation of Section 21(e) of the Act (415 ILCS 5/21(e) (2018));

Count IV—Violation of regulations applicable to transporters of hazardous waste by Clean Harbors in violation of Section 723.120(a) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 723.120(a)) and Section 21(g)(2) of the Act (415 ILCS 5/21(g)(2) (2018));

Count V—Violation of landfill operating permit by Waste Management in violation of Conditions III.D.2.g and III.D.2.j of Permit No. B-141R-M-126 and Section 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2018)); and

Count VI—Accepting hazardous waste without a RCRA hazardous waste permit by Waste Management in violation of Section 21(f)(1) of the Act (415 ILCS 5/21(f)(1) (2018)) and Section 703.121(a) of the Board Waste Disposal Regulations (35 Ill. Adm. Code 703.121 (a)).

On July 17, 2020, the People, Clean Harbors and Waste Management 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 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 *Joliet Herald-News* and the *Morris Herald-News* on August 18, 2020. 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. 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 Clean Harbors and Waste Management'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. Clean Harbors and Waste Management do 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 civil penalty amount. Under the proposed settlement, Clean Harbors and Waste Management agrees to each pay a civil penalty of \$14,750 (for a civil penalty totaling \$29,500) within 30 days after the date of this order. The People, Clean Harbors and Waste Management 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.³

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Clean Harbors must pay a civil penalty of \$14,750 by October 19, 2020, which is the first business day following the 30th day after the date of this order. Clean Harbors 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 number, case name, and Clean Harbors' federal employer identification number must appear on the face of the certified check or money order.
3. Waste Management must pay a civil penalty of \$14,750 by October 19, 2020, which is the first business day following the 30th day after the date of this order. Waste Management 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 number, case name, and Waste Management's federal employer identification number must appear on the face of the certified check or money order.
4. Respondents 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

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

Elizabeth Dubats
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

³ The case against the Aux Sable respondents continues. As the Board today accepts the stipulation and proposed settlement involving the People, Clean Harbors and Waste Management, the caption of subsequent orders issued in this docket will not include Clean Harbors and Waste Management.

5. 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)).
6. Clean Harbors and Waste Management must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

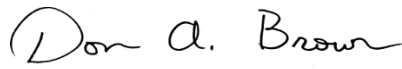
IT IS SO ORDERED.

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) (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
Elizabeth Dubats Assistant Attorney General Environmental Bureau Illinois Attorney General's Office 69 W. Washington Street, Suite 1800 Chicago, Illinois 60602	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Clean Harbors Environmental Services, Inc. Timmery Ann Fitzpatrick Assistant General Counsel P.O. Box 9149 42 Longwater Drive Norwell, MA 02061-9149 Fitzpatrick.timmery@cleanharbors.com	

Waste Management of Illinois Molly Snittjer Nijman Franzetti LLP 10 S. LaSalle Street Suite 3600 Chicago, IL 60603 ms@nijmanfranzetti.com	
---	--

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on September 17, 2020, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board