

ILLINOIS POLLUTION CONTROL BOARD

March 3, 2016

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 99-134
	)	(Enforcement - Water)
VIRGINIA CONSERVATION LEGACY	)	
FUND, INC.,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by C.K. Zalewski):

On March 25, 1999, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Peabody Coal Company. The complaint concerns water pollution and groundwater quality standards violations at the Eagle No. 2 mine shaft. The mine shaft is located on a 250 acre tract of land, approximately one mile northwest of Shawneetown, Gallatin County. The surface portion of Eagle No. 2 is located in Sections 15, 16, 21 and 22 of Township 9 South, Range 9 East, Gallatin County.

On October 26, 2015, the U.S. Bankruptcy Court for the Eastern District of Virginia entered an order confirming a joint plan of reorganization under chapter 11 of the Bankruptcy Code for respondent Heritage Coal Company, LLC (“Heritage Coal”), formerly known as Peabody Coal Company. This most recent order approved and effectuated the transfer of all assets to respondent, Virginia Conservation Legacy Fund, Inc. (“VCLF”) from Heritage Coal. This transfer included all assets necessary for VCLF to assume full responsibility for the management of environmental conditions at the site in question, “Eagle No. 2.” The responsibilities assumed by VCLF include the substitution of VCLF as respondent in this matter.

On February 25, 2016, the parties filed a stipulation and proposal for settlement (Stip.). The parties now seek to settle this enforcement case without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2014)), the Attorney General may bring actions before the Board on behalf of the People to enforce Illinois’ environmental requirements. See 415 ILCS 5/31 (2014); 35 Ill. Adm. Code 103. In this case, the People allege that VCLF violated Section 12(a) and (d) of the Act (415 ILCS 5/12(a) and (d)(1998)) and Rule 204(b) of Chapter 3: Water Pollution Control Rules and Regulations (1979) 35 Ill. Adm. Code 302.208 (1982); 35 Ill. Adm. Code 302.304(1982); 35 Ill. Adm. Code 302.304 (1996); 35 Ill. Adm. Code 620.410(a)(1996); 35 Ill. Adm. Code 620.301 (1996); and 35 Ill. Adm. Code 620.405 (1996). Stip. at 4, 5. Specifically, the complaint alleges that the Eagle No. 2 operation disposed of coarse coal mine waste, coal slurry waste, and other related wastes in

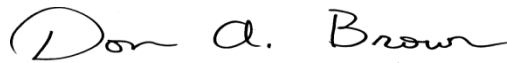
such a way that inorganic chemicals saturated the groundwater and caused the groundwater quality standards to be exceeded. *Id.* at 7.

On February 25, 2016, the People and VCLF 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) (2014)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2014)), 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). Under the proposed stipulation, VCLF does not affirmatively admit the allegations of the complaint but agrees to pay a civil penalty of \$5,400 and establish a groundwater management zone at the site. *Stip.* at 10, 11. In consideration of VCLF's civil penalty, its commitment to cease and desist from the violations, and its compliance action, the People agree to release, waive, and discharge Heritage Coal and VCLF from any further liability or penalties for the violations alleged in the complaint.

Unless the Board determines that a hearing is needed, the Board must cause notice of stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2014); 35 Ill. Adm. Code 103.300(b), (c). The Board, therefore, directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, Don A. Brown, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 3, 2016, by a vote of 5-0.



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Don A. Brown, Assistant Clerk  
Illinois Pollution Control Board