



ILCS 5/42(c) (2008)), respondents must pay the reasonable value of the fish and aquatic life destroyed by the discharge of contaminated stormwater from the manure stockpiles. *See* 35 Ill. Adm. Code 103.204(c).

On November 8, 2010, simultaneously with the filing of the People's complaint, the People and respondents 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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 proposed stipulation states that the manure release killed approximately 156,870 fish and impacted Richland Creek for approximately 7.8 miles. Under the proposed stipulation, respondents admit the alleged violations, agree to pay a civil penalty of \$5,000, and also agree to pay \$20,699.68 to the State of Illinois Wildlife and Fish Fund for recovery of fish killed and investigation expenses. The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Woodford Journal* on November 25, 2010. 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) (2008); 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 the respondents' 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) (2008)). The People and the respondents have satisfied Section 103.302. Respondents admit the alleged violations, agree to pay a civil penalty of \$5,000, and also agree to pay \$20,699.68 to the State of Illinois Wildlife and Fish Fund for recovery of fish killed and investigation expenses. 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. Respondents Gerald N. Knoblauch, L.L.C. and Bender Land Improvement, Inc. must jointly and severally pay a civil penalty of \$5,000 by February 7, 2011, which is the first business day following the 30th day after the date of this order. The respondent must pay the civil penalties 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 respondents' federal employer

identification numbers must be included on the certified check or money order.

3. The respondents must send the certified check or money order to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

A copy of the certified check or money order and any transmittal letter shall be sent to:

Environmental Bureau  
Illinois Attorney General's Office  
500 South Second Street  
Springfield, Illinois 62706

4. Respondents must also jointly and severally pay a sum of \$20,699.68 to the State of Illinois Wildlife and Fish Fund for recovery of the value of the fish killed and investigation expenses by February 7, 2011, which is the first business day following the 30th day after the date of this order. The respondents must pay the civil penalties by certified check or money order, payable to the Treasurer of the State of Illinois for deposit in the State of Illinois Wildlife and Fish Fund. The case number, case name, and respondents' federal employer identification numbers must be included on the certified check or money order.

Respondents must send this payment as directed in paragraph 3, above.

5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
6. The respondents must cease and desist from the violations.

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) (2008); *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 Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 6, 2011, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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John Therriault, Clerk  
Illinois Pollution Control Board