

ILLINOIS POLLUTION CONTROL BOARD
March 20, 2014

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 13-66
) (Enforcement - Water)
UNION PACIFIC RAILROAD)
COMPANY, a Delaware corporation, and)
WALSH CONSTRUCTION COMPANY,)
an Illinois corporation,)
)
Respondents.)

ORDER OF THE BOARD (by J.D. O’Leary):

On May 29, 2013, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a 3-count complaint against Union Pacific Railroad Company (Union Pacific) and Walsh Construction Company (Walsh Construction) (collectively, respondents). The complaint concerns stormwater drainage from a railroad bridge that Union Pacific contracted with Walsh Construction to construct in Bellwood, Cook County (“Bridge Project”). The parties now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties’ stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2012)), 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 (2012); 35 Ill. Adm. Code 103. In this case, the People allege that respondents violated: (1) Section 12(a) of the Act (415 ILCS 5/12(a) (2012)) by allowing storm water from the Bridge Project to run into Addison Creek and (2) Section 12(d) of the Act (415 ILCS 5/12(d) (2012)) by not providing adequate erosion control. The People further allege that Union Pacific violated Section 12(f) of the Act (415 ILCS 12(f) (2012)) by not complying with the general storm water National Pollutant Discharge Elimination System permit.

On March 5, 2014, 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) (2012)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2012)), 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, the respondents do not affirmatively admit the alleged violations and agree to pay a civil penalty of \$25,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the 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 parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2012); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 20, 2014 by a vote of 4-0.

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

John T. Therriault, Clerk
Illinois Pollution Control Board