## ILLINOIS POLLUTION CONTROL BOARD February 7, 2002

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	) )	
V.	)	PCB 02-82
DI PAOLO COMPANY, an Illinois	)	(Enforcement – Water)
corporation,	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

On December 19, 2001, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Di Paolo Company (Di Paolo). *See* 415 ILCS 5/31(c)(1) (2000); 35 Ill. Adm. Code 103.204. The People allege that Di Paolo violated Sections 12(a), 12(d), and 12(f) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), 12(d), 12(f) (2000)), and various provisions of the Board's water pollution regulations. The People further allege that Di Paolo violated these provisions by pumping groundwater with sediment into a designated wetland area. Di Paolo is a construction and excavation contractor. The complaint concerns a water main extension in Valley Lakes Subdivision, Round Lake, Lake County.

On December 26, 2001, the People and Di Paolo 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) (2000)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000)). See 35 III. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The newspaper notice was published in the *News Sun* on December 31, 2001. 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) (2000); 35 III. 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 Di Paolo'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) (2000)). The People and Di Paolo have satisfied Section 103.302. Di Paolo neither admits nor denies the alleged violations, but agrees to pay a \$9,000 penalty.

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. Di Paolo Company (Di Paolo) must pay a civil penalty of \$9,000 no later than March 11, 2002, which is the 30th business day after the date of this order. Di Paolo must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Di Paolo's social security number or federal employer identification number must be included on the certified check or money order.
- 3. Di Paolo 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

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
- 5. Di Paolo must cease and desist from the alleged 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) (2000); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 7, 2002, by a vote of 7-0.

Dorothy Mr. Jun

Dorothy M. Gunn, Clerk Illinois Pollution Control Board