ILLINOIS POLLUTION CONTROL BOARD November 4, 2004

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
V.)	PCB 04-224
)	(Enforcement - Water)
HERITAGE FS, INC., an Illinois incorporated)	
cooperative,)	
)	
Respondent.)	
cooperative,)))	

ORDER OF THE BOARD (by T.E. Johnson):

On June 23, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Heritage FS, Inc. (Heritage FS). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The complaint concerns Heritage FS's branch bulk fuel facility at 2201 Grinnel Road, Kankakee, Kankakee County.

The People allege that Heritage FS violated Section 12(a), (d), and (f) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), (d), and (f) (2002)) and 35 Ill. Adm. Code 304.105, 304.106, and 309.102(a) by releasing approximately 790 gallons of diesel fuel in July 2003. The People allege that approximately 540 of the 790 gallons were deposited on the ground, of which a portion flowed, aided by heavy rain, over land about 400 feet to a drainage ditch that leads to Soldier Creek, a tributary of the Kankakee River, and ultimately to the Kankakee River, where it was carried a mile downstream. The remaining 250 gallons were allegedly caught and retained by a recovery tank.

On October 26, 2004, the People and Heritage FS 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) (2002). These filings are authorized by Section 31(c)(2) of the Act. 415 ILCS 5/31(c)(2) (2002). See 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Heritage FS neither admits nor denies the violations alleged in the complaint, and agrees to pay a civil penalty of \$10,000. Heritage FS also agrees to perform two supplemental environmental projects.

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. 415 ILCS 5/31(c)(2) (2000); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk of the Board to provide the required notice.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 4, 2004, by a vote of 5-0.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board