ILLINOIS POLLUTION CONTROL BOARD November 3, 2005

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
-)	
v.)	PCB 05-215
)	(Enforcement - Public Water Supply)
FIRST ROCKFORD GROUP, INC.,)	
VILLAGE OF CHERRY VALLEY,)	
HERITAGE ENGINEERING, LTD., and)	
SCHLICHTING & SONS EXCAVATING,)	
INC.,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On June 15, 2005, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against First Rockford Group, Inc., Heritage Engineering, Ltd., and Schlichting & Sons Excavating, Inc. (collectively, respondents), and a two-count complaint against Village Of Cherry Valley (Cherry Valley). *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The People allege that respondents and Cherry Valley violated Section 15 of the Environmental Protection Act (Act) (415 ILCS 5/15 (2004)), and provisions of the Board's rules at 35 Ill. Adm. Code 602.101(a). In the second count of the complaint, the People allege that Cherry Valley violated Section 15 of the Act (415 ILCS 5/15 (2004)) and the Board's rules at 35 Ill. Adm. Code 602.101(a) and 652.101(a). The People allege that respondents and Cherry Valley violated these provisions by constructing and installing potable water lines at the Golf Hill subdivision in Cherry Valley, Winnebago County.

On September 26, 2005, the People and one of the respondents, Heritage Engineering, Ltd. (individually, Heritage), 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) (2004)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)). See 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in several in the Rockford Register Star. The notice was published on October 1, 2005. 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) (2004); 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 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) (2004)). The People and Heritage have

satisfied Section 103.302. Heritage admits the alleged violations and agrees to pay a civil penalty of \$2,500. 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. Heritage Engineering, Ltd. must pay a civil penalty of \$2,500, no later than December 5, 2005. Heritage Engineering, Ltd. must pay the civil penalty by certified check money order, or electronic transfer, payable to Illinois EPA designated for the Illinois Environmental Protection Trust Fund. The case number, case name, and respondents' social security number or federal employer identification number must be included on the certified check or money order.
- 3. Heritage Engineering, Ltd. 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. A copy of each certified check, money order, or electronic funds transfer and any transmittal letter shall be sent to:

Ms. Bridget M. Carlson Assistant Attorney General Environmental Bureau 188 W. Randolph St., 20th Floor Chicago, Illinois 60601

- 5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
- 6. Heritage Engineering, Ltd. 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) (2004); *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 November 3, 2005, by a vote of 5-0.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board