ILLINOIS POLLUTION CONTROL BOARD May 3, 2007

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
- V.)	PCB 06-160
MATRIX NATIONAL INVESTMENT)	(Enforcement - Water)
CORP., an Illinois corporation,)	
Respondent.)	

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

On May 2, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Matrix National Investment Corp. (Matrix). See 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns Matrix's residential subdivision known as Cobblestone Crossing, located in Section 12, Township 28 North, Range 1 West on Oldenburg Road in the northwestern portion of the City of Galena, Jo Daviess County. The parties now seek to settle. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2004)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2004); 35 Ill. Adm. Code 103. In this case, the People allege that Matrix violated Sections 12(a), (d), and (f) of the Act (415 ILCS 5/12(a), (d) and (f) (2004)). The People further allege that Matrix violated these provisions by: (1) using inadequate erosion control measures so as to cause, threaten, or allow water pollution; (2) depositing contaminants onto the land so as to create a water pollution hazard; and (3) violating requirements in its general National Pollutant Discharge Elimination System permit for storm water discharges.

On March 13, 2007, the People and Matrix 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)), 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 Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Galena Gazette* on March 21, 2007. 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. *See* 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 Matrix'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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The People and Matrix have satisfied Section 103.302. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount. Matrix admits to the alleged violations and agrees to pay a civil penalty of \$15,000. 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. Matrix must pay a civil penalty of \$15,000 no later than June 4, 2007, which is the first business day following the 30th day after the date of this order. Matrix must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund.
- 3. Matrix must submit payment of the civil penalty to:

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

Matrix must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to:

Stephen J. Sylvester Assistant Attorney General Environmental Bureau 188 W. Randolph St., 20th Floor Chicago, Illinois 60601

4. Matrix must cease and desist from future violations of the Act that were the subject of the complaint.

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, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 3, 2007, by a vote of _____.

John T. Therriault, Assistant Clerk Illinois Pollution Control Board