

named Spring Creek Meadows L.L.C. (Spring Creek). Spring Creek was created in part to develop the residential subdivisions of Winchester Hills, Wexford Place, and Wyndridge in Machesney Park, Winnebago County that are the subject matter of this complaint. The Board docketed the complaint as PCB 06-103, and accepted the complaint for hearing on January 5, 2006. The Board consolidated PCB 05-215 with PCB 06-103 on February 2, 2006.

On May 18, 2007, the People and the sole remaining respondent, First Rockford, 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) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)), 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 *Rockford Register* on June 13, 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) (2006); 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 First Rockford'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) (2006)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The People and First Rockford have satisfied Section 103.302. Under the proposed stipulation, First Rockford admits the violations alleged in the PCB 05-215 complaint. First Rockford neither admits nor denies the violations alleged in the PCB 06-103 complaint. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2006)), which may mitigate or aggravate the civil penalty amount. First Rockford agrees to pay a civil penalty of \$35,000. In addition, First Rockford will perform a Supplemental Environmental Project (SEP) requiring a \$20,000 contribution to Rockford School District #205 for its use in retrofitting school bus emissions systems, including the installation of particulate filters on busses to reduce nitrogen oxide emissions. 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. First Rockford must pay a civil penalty of \$35,000 no later than August 13, 2007, which is the first business day following the 30th day after the date of this order. First Rockford must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund. The case number, case name, and First

Rockford's federal employer identification number must be included on any certified check or money order.

3. First Rockford 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

First Rockford must send a copy of the certified check or money order and any transmittal letter to:

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

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).
5. No later than August 13, 2007, which is the first business day following the 30th day after the date of this order, First Rockford must submit the sum of \$20,000 to Rockford School District #205 for its use in retrofitting its school buses to reduce particulate matter and nitrous oxide emissions. First Rockford must pay the \$20,000 by check, payable to Rockford School District #205.
6. First Rockford must submit payment of the \$20,000 to:

Dr. Dennis Thompson
Superintendent
Rockford School District #205
201 South Madison Street
Rockford, Illinois 61104

First Rockford must send a copy of the check and any accompanying cover letter to:

Nancy J. Tikalsky
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor

Chicago, Illinois 60601

7. First Rockford 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) (2006); *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 Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 12, 2007, by a vote of 4-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board