

ILLINOIS POLLUTION CONTROL BOARD

October 4, 2007

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 06-157
	)	(Enforcement - Water)
BELVIDERE NATIONAL BANK AND	)	
TRUST COMPANY, TRUST NUMBER 1600	)	
and CORDRAY BROTHERS, INC.,	)	
	)	
Respondents.	)	

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

On April 12, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Belvidere National Bank and Trust Company, Trust Number 1600 (Trust) and Cordray Brothers, Inc. (Cordray Brothers) (collectively, respondents). The complaint concerns two parcels. The first parcel is the Cordray Brothers' sand and gravel quarry located on approximately 45 acres of land east of the City of Belvidere in Bonus Township, Boone County (North Parcel). The second parcel is the Trust's approximately 25 acres of vacant land located on the north side of Route 20 in Bonus Township, Boone County, east of the City of Belvidere, east of Coon Creek, and immediately across the Kishwaukee River from the North Parcel (South Parcel). The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), 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 (2006); 35 Ill. Adm. Code 103. In this case, the first count of the complaint alleges that respondents violated Section 12(a) of the Act (415 ILCS 5/12(a) (2006)) by threatening or allowing the discharge of silt-laden storm water from the South Parcel into the Kishwaukee River and Coon Creek so as to tend to cause water pollution. Count II of the complaint alleges that respondents violated Section 12(d) of the Act (415 ILCS 5/12(d) (2006)) by allowing large dirt stockpiles to accumulate on the South Parcel adjacent to the Kishwaukee River and Coon Creek, creating a water pollution hazard. In count III of the complaint, the People allege that respondents violated Section 12(f) of the Act (415 ILCS 5/12(f) (2006)) and Section 309.102(a) of the Board's regulations (35 Ill. Adm. Code 309.102(a)) by threatening to allow or allowing storm water discharges from the South Parcel without first obtaining coverage under the general National Pollutant Discharge Elimination System (NPDES) storm water permit. Count IV of the complaint alleges that Cordray Brothers violated 35 Ill. Adm. Code 404.101(a)(2) and Section 12(a) of the Act (415 ILCS 5/12(a) (2006)) by operating a quarry on the North Parcel without first obtaining a permit from the Illinois Environmental Protection Agency.

The stipulation also includes alleged violations that were not in the complaint. These additional alleged violations concern Cordray Brothers' limestone quarry encompassing approximately 42 acres just east of the intersection of Leaf River Road and Sumner Road in Leaf River Township, Ogle County (Leaf River Quarry). The People allege that respondents violated Sections 12(a) and (b) of the Act (415 ILCS 5/12(a), (b) (2006)) and Sections 404.101(a)(1) and (2) of Board's regulations (35 Ill. Adm. Code 404.101(a)(1), (2) (2006)) at Leaf River Quarry.<sup>1</sup>

On August 20, 2007, the People and respondents 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. As the alleged violations involve sites in two counties, newspaper notice was published in the Ogle County Newspapers, including the *Oregon Republican Reporter*, on August 30, 2007, and in the *Boone County Journal* on August 31, 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 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) (2006)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Respondents admit the alleged violations. 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. Respondents agree to pay a civil penalty of \$15,000. The People and respondents have satisfied Section 103.302. 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. Respondents must pay a civil penalty of \$15,000 no later than November 5, 2007, which is the first business day following the 30th day after the date of this order. Respondents 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 name, case number, and each

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<sup>1</sup> Complaints may be amended to set forth new or modified claims. *See* 35 Ill. Adm. Code 103.206(d).

respondent's Federal Employer Identification Number must appear on the certified check or money order.

3. Respondents 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, IL 62794-9276

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

Mathew Marinelli  
Assistant Attorney General  
Environmental Bureau  
69 West Washington Street, Suite 1800  
Chicago, IL 60602


James Day  
Assistant Council  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 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) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).
5. Respondents must cease and desist from future violations of the Act and Board regulations that were the subject matter of the complaint and the additional alleged violations set forth in the stipulation.

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 October 4, 2007, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

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John Therriault, Assistant Clerk  
Illinois Pollution Control Board