ILLINOIS POLLUTION CONTROL BOARD September 4, 2008

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 05-110
)	(Enforcement - Water)
J. McDANIEL, INC., an Illinois corporation,)	
•)	
Respondent.)	

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

On December 14, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against J. McDaniel, Inc. The complaint concerns two separate incidents that occurred in 2001: (1) the release of 2,900 gallons of gasoline from a tanker truck operated by J. McDaniel, Inc. at a service station located at the corner of Voorhees and Bowman Streets in Danville, Vermilion County; and (2) the release of over 8,000 gallons of gasoline from a tanker truck operated by J. McDaniel, Inc. on Route 136 in McLean County when the vehicle crossed into oncoming traffic, struck a car, rolled over, and struck a utility pole. In two separate stipulations, one for the Vermilion County incident and one for the McLean County incident, the parties now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulations, proposed settlements, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2006); 35 III. Adm. Code 103. In this case, the People allege that J. McDaniel, Inc. violated Sections 12(a) and (d) of the Act (415 ILCS 5/12(a), (d) (2006)) by (1) causing water pollution by causing or allowing the discharge of gasoline and dissolved petroleum constituents into a storm sewer, surface water drainage way, and Stony Creek, and by causing a fish kill; (2) creating a water pollution hazard by causing or allowing gasoline and dissolved petroleum constituents to be released from a tanker truck and deposited on land within a drainage way and subsequently failing to remove the contaminated soils or sediments; (3) causing water pollution by causing or allowing the discharge of gasoline and dissolved petroleum constituents into a surface water drainage way and Sugar Creek, and by causing a fish kill; and (4) creating a water pollution hazard by causing or allowing gasoline and dissolved petroleum constituents to be released from a tanker truck and deposited on land within a drainage way along either side of Route 136 and in the area between the release point and a nearby residential well.

On August 29, 2008, the People and J. McDaniel, Inc. filed two separate stipulations and proposed settlements, 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)). These filings are 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 III. Adm. Code 103.300(a). Under the proposed stipulations, J. McDaniel, Inc. does not admit the alleged violations but agrees to pay a civil penalty of \$25,000 for the alleged violations in Vermilion County and a civil penalty of \$35,000 for the alleged violations in McLean County.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulations, proposed settlements, 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. *See* 415 ILCS 5/31(c)(2) (2006); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 4, 2008, by a vote of 4-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board

John T. Sherriants