ILLINOIS POLLUTION CONTROL BOARD October 16, 2008

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 08-44
PRAIRIE MATERIAL SALES, INC., an)	(Enforcement – Water)
Illinois corporation,)	
Respondent.)	

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

On February 13, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a six-count complaint against Prairie Material Sales, Inc. (Prairie Material). The complaint concerns Prairie Material's concrete production facility in its Yard 1014 located at 799 South Route 53 in the Village of Addison, DuPage County (Facility). The parties now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the stipulation, proposed settlement, 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 Ill. Adm. Code 103. In this case, the complaint alleges that Prairie Rivers violated Sections 12(a), (d), and (f) of the Act (415 ILCS 12(a), (d), (f) (2006)) and Sections 304.105, 304.106, and 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 304.105, 304.106, 309.102(a)). The complaint alleges that Prairie Material violated these provisions by (1) causing, threatening, or allowing water pollution; (2) causing or allowing offensive discharges and discharging an effluent in violation of a water quality standard; (3) allowing contaminants to be placed on the ground so as to create a water pollution hazard; (4) discharging into waters of the State without a National Pollutant Discharge Elimination System (NPDES) permit; (5) failing to obtain an NPDES stormwater permit for construction site activities; and (6) discharging in excess of effluent limits.

On October 2, 2008, the parties 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).

According to the proposed stipulation, Prairie Material is now known as Southfield Corporation, an Illinois corporation (Southfield). Stipulation at 1. Further, on February 1, 2008, VCNA Prairie Illinois Building Materials, LLC, a Delaware limited liability company (VCNA), purchased certain assets of Southfield, including the Facility. *Id.* at 1-2. The stipulation states that VCNA currently engages in the batching of aggregate and cementitious materials to produce ready-mix concrete at the Facility. Id. Southfield formerly engaged in that activity at the Facility. Id. Under the proposed stipulation, the People contend that based on an April 25, 2008 inspection of the Facility by the Illinois Environmental Protection Agency (Agency), Southfield has violated Section 12(f) of the Act (415 ILCS 5/12(f) (2006)) and 35 III. Adm. Code 309.102(a) by failing to comply with the terms of NPDES Permit ILR005566 and failing to employ site stabilization practices as required by NPDES Permit ILRIOH169. Id. at 3. The stipulation and proposal for settlement has been executed by the People, the Agency, Southfield, and VCNA. Id. at 12. Under the proposed stipulation, Southfield neither admits nor denies the violations alleged in the complaint or observed by the Agency on April 25, 2008. Id. at 4. The terms of the proposed settlement require Southfield and VCNA to jointly and severally pay a civil penalty of \$55,000. Id. at 7.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, 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 October 16, 2008, by a vote of 4-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board

John T. Therrian