

ILLINOIS POLLUTION CONTROL BOARD

January 22, 2009

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 09-29
) (Enforcement –Water)
KAPLAN DEVELOPMENT AND)
INVESTMENT COMPANY,)
)
Respondent.)

ORDER OF THE BOARD (by S.D. Lin):

On October 28, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Kaplan Development and Investment Company (respondent). The complaint concerns a site known as the Summit Springs lift station, located in Caseyville, St. Clair County. The parties now seek to settle without a hearing. The Board directs the Clerk to provide public notice of the parties' 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 People allege that respondent violated Sections 12(a) 12(b), and (f) of the Act, 415 ILCS 5/12(a), 12(b), and (f) (2006), Sections 302.203, 304.106, 306.102(a), and 306.304 of the Board's Water Pollution Regulations, (35 Ill. Adm. Code 302.203, 304.106, 306.102(a), and 306.304), as well as Special Condition 1 of Illinois Environmental Protection Agency Water Pollution Control Permit No. 2003-IA-4132. According to the complaint, respondent violated these provisions by (1) causing four separate wastewater overflows that caused, threatened, or allowed the discharge of untreated sewage into the environment, (2) discharging sewage into a nearby creek, (3) allowing untreated wastewater to be discharged into a nearby creek, leaving deposits of unnatural origin in the creek, and (4) operating the lift station without the necessary safeguards against power or equipment failure, in violation of the terms of respondent's water pollution control permit.

On January 7, 2009, the People and respondent 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). Under the proposed stipulation, respondent does not admit the alleged violations but agrees to pay a civil penalty of \$ 5,000.

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 January 22, 2009, by a vote of 5-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John Therriault, Assistant Clerk
Illinois Pollution Control Board