ILLINOIS POLLUTION CONTROL BOARD April 16, 2009

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
V.)	PCB 08-17
)	(Enforcement - Water)
FELKER PHARMACY, INC. and ROD BENNETT CONSTRUCTION, INC.,)	
Respondents.)	

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

On August 20, 2007, the People of the State of Illinois by the Attorney General, on her own motion and at the request of Illinois Environmental Protection Agency (People), filed a three-count complaint against Felker Pharmacy, Inc. (Felker) and Rod Bennett Construction, Inc. (Bennett) (collectively, respondents). See 415 ILCS 5/31(c)(1) (2006); 35 Ill. Adm. Code 103.204. The complaint concerns the Synder Pharmacy site located at Galena Avenue and Everett Street, Dixon, Lee County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the complaint as meeting the applicable content requirements of the Board's procedural rules. See 35 Ill. Adm. Code 103.204. The Board further 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 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 People allege that respondent violated 415 ILCS 5/12(a), 5/12(d), 5/12(f) (2006) and 35 Ill. Adm. Code 309.102(a). The People further allege that respondents violated these provisions by causing, threatening, or allowing water pollution, creating a water pollution hazard, and failure to obtain a National Pollutant Discharge Elimination System permit.

On April 2, 2009, 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). Under the proposed stipulation, respondents neither admit nor deny the alleged violations and agree to pay a civil penalty of \$7,500.00.

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 T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 16, 2009, by a vote of 5-0.

John T. Therriault, Assistant Clerk

Illinois Pollution Control Board