## ILLINOIS POLLUTION CONTROL BOARD May 7, 2009

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	)	
Complamant,	)	
v.	)	PCB 09-73
	)	(Enforcement - Water)
SUMMER RIDGE, LLC, and STARK	)	
EXCAVATING, INC.,	)	
	)	
Respondents.		

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

On April 3, 2009, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint (Complaint)<sup>1</sup> against Summer Ridge, LLC, and Stark Excavating, Inc. (collectively respondents), concerning respondents' residential housing area known as Summer Ridge Subdivision, located at Alta Road and Radnor Road, Peoria, Peoria County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposal for 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 People allege that respondents violated Sections 12(a) and 12(d), of the Act, (415 ILCS 5/12(a) and (d), (2006)), and that Summer Ridge also violated Section 12(f) of the Act (415 ILCS 5/12(f) (2006)) and Section 309.102(a) of the Board's Water Pollution Regulations (35 Ill. Adm. Code 309.102(a)). The People further allege that respondents violated the provisions of the Act and Board's regulations by failing to provide adequate storm water pollution controls, thereby depositing contaminants upon the land in such a place and manner so as to create a water pollution hazard and violating Summer Ridge's National Pollution Discharge Elimination System permit.

On April 3, 2009, the People and respondents also filed two separate stipulations and proposals for settlement, each 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)). The Board provided notice of the stipulations and proposals for settlement, and requests for relief from hearing. The Board published newspaper notice in the *Peoria Journal Star* on April 9, 2009. 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).

<sup>&</sup>lt;sup>1</sup> The complaint alleges both counts against respondent Summer Ridge, but only the first count against respondent Stark Excavating.

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposals for settlement. *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. Under the proposed stipulations, both respondents admit to the alleged violations. Respondents also agree to pay civil penalties in the amount of \$10,000.00 (Summer Ridge), and \$5,000.00 (Stark Excavating).

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. Summer Ridge agrees to pay a civil penalty of \$10,000.00. Stark Excavating agrees to pay a civil penalty of \$5,000.00. The People and respondents have satisfied Section 103.302. The Board accepts the stipulations and proposals for settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.

## <u>ORDER</u>

- 1. The Board accepts and incorporates by reference the stipulations and proposals for settlement.
- 2. Summer Ridge, LLC must pay a civil penalty of \$10,000.00 and Stark Excavating, Inc. must pay a civil penalty of \$5,000.00. The payments must be made no later than June 8, 2009, which is the first business day after 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 Trust Fund. The case number, case name, and respondent's federal employer identification number must be included on each respondent's respective certified check or money order.
- 3. Respondents must send the certified checks or money orders to:

Illinois Environmental Protection Agency Fiscal Services Division 1021 North Grand Avenue East P.O. Box 19276 Springfield, Illinois 62794-9276

Respondents must send copies of the certified checks or money orders and any transmittal letters to:

Raymond J. Callery Environmental Bureau Illinois Attorney General's Office 500 South Second Street Springfield, Illinois 62706

- 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 Summer Ridge, LLC and Stark Excavating, Inc. must cease and desist from the alleged violations.

## 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 May 7, 2009, by a vote of 5-0.

John T. Themant

John Therriault, Assistant Clerk Illinois Pollution Control Board