# ILLINOIS POLLUTION CONTROL BOARD July 23, 2009

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 09-03
	)	(Enforcement - Water)
PRAEDIUM DEVELOPMENT	)	
CORPORATION, an Illinois corporation, and	)	
PLAZA EXCAVATING, INC., an Illinois	)	
corporation,	)	
	)	
Respondents.	)	

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

On July 8, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Praedium Development Corporation (Praedium) and Plaza Excavating, Inc., (Plaza), two Illinois corporations (collectively, respondents), concerning Praedium's ten acre parcel of land located at the northwest intersection of Long Grove Road and Route 12 in Deer Park, Lake County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), 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 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that respondents violated Sections 12(a), 12(b), 12(d), and 12(f) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), (b), (d), and (f) (2008)), and Sections 302.203, 309.102(a) and 309.202(a) of the Board's Water Pollution Regulations (35 Ill. Adm. Code 302.203, 309.102(a), 309.202(a)). The People allege that respondents violated these provisions by (1) causing, threatening or allowing water pollution by engaging in construction activities which resulted in sediment-laden stormwater flowing into a tributary of Buffalo Creek and onto adjacent wetlands, (2) causing, threatening or allowing a violation of water quality standards by creating offensive conditions, (3) creating a water pollution hazard, (4) failing to implement and comply with the stormwater pollution prevention plan, in violation of Part IV of the General Stormwater Permit, and (5) causing or allowing the construction and/or installation of a sanitary sewer without a permit.

On May 21, 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in *Lake County News Sun* on May 27, 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) (2008); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. *See* 35 III. 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) (2008)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Respondents neither admit nor deny the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2008)), which may mitigate or aggravate the civil penalty amount. Respondents agree to pay a civil penalty of \$40,000. The People and respondents have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

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

### **ORDER**

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. Praedium Development Corporation and Plaza Excavating, Inc., (respondents) must pay a civil penalty of \$40,000 no later than August 24, 2009, which is the first business day following 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 name, case number, and respondents' federal tax identification number must appear on the face of the certified check or money order.
- 3. Respondents must submit payment of the civil penalty to:

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

Respondents must send a copy of the certified check or money order and any transmittal letter to:

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) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
- 5. Respondents 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) (2008); *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 July 23, 2009, by a vote of 5-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board

John T. Therrian