## ILLINOIS POLLUTION CONTROL BOARD September 3, 2009

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	)	
v.	)	PCB 09-40
ILLINOIS VALLEY PAVING COMPANY,	)	(Enforcement – Water)
INC.,	)	
Respondent.	)	

ORDER OF THE BOARD (by T.E. Johnson):

On December 17, 2008 the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Illinois Valley Paving Company (IVPC). The complaint concerns IVPC's temporary concrete batch plant located at the intersection of I-74 and I-474 west of Peoria, Peoria County. The parties now seek to settle without a hearing. For the reasons below, 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)<sup>1</sup> (415 ILCS 5 (2008)), 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 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that IVPC violated Sections 12(a), 12(d), and 12(f) of the Act (415 ILCS 5/12(a), (d), (f) (2008)) and Section 302.203 of the Board's regulations. 35 Ill. Adm. Code 302.203.

Specifically, the People allege that IVPC violated the provisions of the Act and the Board's regulations by discharging contaminant-laden storm water into Kickapoo Creek via an unnamed tributary (Count I); by creating a water pollution hazard by depositing concrete wastes and residues upon the land without the protection of adequate erosion controls (Count II); and by violating the terms of National Pollutant Discharge Elimination System (NPDES) Permit number ILR006436 (Count III).

On August 20, 2009, the People and IVPC filed a stipulation and proposed settlement (Prop.), 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)). The stipulation and proposal for settlement does not include Count II, but instead presents Count III as though it were the second of two counts. *See* Prop. at 3. 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

<sup>&</sup>lt;sup>1</sup> All citations to the Act will be to the 2008 compiled statutes because the provisions at issue have not been substantively amended in the 2008 compiled statutes.

respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, IVPC neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$15,200.

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) (2008); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice. In addition, the Board directs the complainant to file an amended complaint or an amended stipulation and proposal for settlement addressing the inconsistency between the complaint and the stipulation and proposal for settlement.

## IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 3, 2009, by a vote of 4-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board