ILLINOIS POLLUTION CONTROL BOARD November 19, 2009

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 09-31
JAMES BUYSEE d/b/a/ J & B)	(Enforcement - Water)
LANDSCAPING,)	
Respondent.	,	

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

On November 12, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against James Buysee, doing business as J & B Landscaping (respondent). The complaint concerns respondent's site located at Route 6 and Niabi Road, approximately two miles north of Coal Valley, Rock Island 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) (415 ILCS 5 (2008))¹, 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 respondent violated Sections 12(a), 12(d), 21(a), 21(e), and 21(p)(4) of the Act (415 ILCS 5/12(a), 12(d), 21(a), 21(e), 21(p)(4) (2008)) and Section 302.2030f the Board's water pollution regulations (35 Ill. Adm. Code 302.203). The People allege that respondent violated these provisions by (1) causing or allowing the discharge of a hyrdroseed mixture into Shaffer Creek, causing water pollution; (2) dumping a hyrdroseed mixture on the bank of Shaffer Creek so as to create a water pollution hazard; (3) causing or allowing open dumping of leftover hydroseed mixture at its site, causing or allowing the open dumping of waste; (4) disposing leftover hydroseed mixture at its site, which does not meet the requirements of the Act; (5) spilling hydroseed mixture onto the bank of and into Shaffer Creek, causing or allowing the open dumping of waste in a manner that results in the deposition of waste in standing or flowing waters; and (6) discharging bright green colored hydroseed, containing floating debris, onto the land and into waters of the State..

On November 12, 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) (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

¹ All citations to the Act will be to the 2008 compiled statutes, unless the provision at issue has been substantively amended in the 2008 compiled statutes.

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, the respondent admits the alleged violations and agrees to pay a civil penalty of \$14,300.

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.

IT IS SO ORDERED.

C.K. Zalewski abstained.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 19, 2009, by a vote of 4-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board