ILLINOIS POLLUTION CONTROL BOARD February 18, 2010

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
V.)	PCB 07-133
)	(Enforcement - Water)
THOMAS P. MATHEWS,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by C.K. Zalewski):

On June 8, 2007, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Thomas P. Mathews (respondent or Mathews). *See* 415 ILCS 5/31(c)(1) (2008); 35 Ill. Adm. Code 103.204. The complaint concerns respondent's property bordering a small unnamed stream that leads to Wonder Lake, located at the intersection of Westmoor Drive and East Oakwood Drive in Wonder Lake, McHenry County. The parties 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 (2008¹)), 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 that respondent violated Sections 12(a) and 12(d) of the Act (415 ILCS 12(a), (d) (2008)) in 2005 by: (1) causing, allowing or threatening to cause water pollution, and (2) depositing large piles of fill material on his property in such place and manner so as to create a water pollution hazard.

On December 31, 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 hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 III. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Northwest Herald* on January 9, 2010. 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 III. 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 Ill. Adm. Code 103.302. These requirements

¹ All citations to the Act will be to the 2008 Illinois Compiled Statutes because the provisions at issue have not been substantively amended in the 2008 version.

include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of respondent's 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. Respondent Mathews does not affirmatively admit 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. Respondent agrees to pay a civil penalty of \$5,000.00.

The People and respondent 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. Mathews must pay a civil penalty of \$5,000.00 no later than Monday, March 22, 2010, which is the first business day following the 30th day after the date of this order. Respondent must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name, case number, and respondent's Social Security number or federal tax identification number must appear on the face of the certified check or money order.
- 3. Respondent 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

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

Andrew Armstrong Environmental Bureau Illinois Attorney General's Office 69 West Washington Street, Suite 1800 Chicago, Illinois 60602

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. Respondent 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.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 18, 2010, by a vote of 4-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board