## ILLINOIS POLLUTION CONTROL BOARD October 21, 2010

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## ORDER OF THE BOARD (by A.S. Moore):

On April 27, 2010, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Freeport Area Economic Development Foundation, doing business as Northwest Illinois Development Alliance, a not-for-profit corporation (FAEDF), and Weitz Industrial, LLC, a foreign corporation (Wietz), (collectively, respondents). The complaint concerns a site known as Mill Race Industrial Park, a 145-acre property located east of Springfield Road, north of Hiveley Road, and south of Business 20, in Freeport, Stephenson County. The People and FAEDF now seek to settle without a hearing. Weitz is not a party to the stipulation. For the reasons below, the Board directs the Clerk to provide public notice of the stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (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 respondents violated the following provisions in the manner described: (1) Section 12(a) of the Act (415 ILCS 5/12(a) (2008)) by failing to maintain storm water controls at the site, thus causing or allowing contaminants to discharge into a water of the State, causing water pollution; (2) Sections 302.203 and 304.106 of the Board's water pollution regulations (35 Ill. Adm. Code 302.203, 304.106) and Section 12(a) of the Act (415 ILCS 5/12(a) (2008)) by allowing discharges containing color and turbidity of other than natural origin and causing bottom deposits in Silver Creek; and (3) Section 12(d) of the Act (415 ILCS 5/12(d) (2008)) by depositing sediment onto the land in such a place and manner so as to create a water pollution hazard. The People also allege that FAEDF alone violated Section 12(f) of the Act (415 ILCS 5112(f) (2008)), Section 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 309.102(a)), and Part IV of FAEDF's National Pollutant Discharge Elimination System (NPDES) permit by failing to implement provisions of its storm water pollution prevention plan and allowing contaminants to discharge into Silver Creek.

On October 7, 2010, the People and FAEDF 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). Under the proposed stipulation, FAEDF admits the alleged violations and agrees to pay a civil penalty of \$546.

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 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.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 21, 2010, by a vote of 5-0.

In T. Therrian

John Therriault, Assistant Clerk Illinois Pollution Control Board