## ILLINOIS POLLUTION CONTROL BOARD April 7, 2011

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	)	
Complanant,	)	
v.	)	PCB 09-24
	)	(Enforcement - Water)
VILLENEAUVE DEVELOPMENT	)	
COMPANY, an Illinois partnership,	)	
	)	
Respondent.	)	

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

On October 17, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Dennis LaHood, doing business as Villeneauve Subdivision, an Illinois limited liability corporation (LaHood). The complaint concerns a subdivision development located southeast of the intersection of Route 116 and 24 in East Peoria, Tazewell 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 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 complaint alleges that LaHood violated Section 12(a) of the Act (415 ILCS 5/12(a) (2008)) and Section 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 309.102(a)) by causing water pollution through the discharge of sediment into an unnamed stream, ravines, and stormwater inlets. The complaint also alleges that Villeneauve Subdivision violated Section 12(f) of the Act (415 ILCS 5/12(f) (2008)) by failing to implement adequate erosion controls in violation of the terms of its general National Pollutant Discharge Elimination System (NPDES) stormwater permit.

On January 31, 2011, the parties filed an agreed motion to substitute Villeneauve Development Company, an Illinois partnership (Villeneauve Development), for the individual Dennis LaHood. By order of February 3, 2011, the Board granted the agreed motion, as reflected in the caption of this order. *See* 35 Ill. Adm. Code 103.202(c).

On January 31, 2011, the People and Villeneauve Development 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

the *East Peoria Times-Courier* on February 23, 2011. 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. 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of Villeneauve Development'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. Villeneauve Development neither admits nor denies 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. Villeneauve Development agrees to pay a civil penalty of \$15,000. The People and Villeneauve Development 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.

## <u>ORDER</u>

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. Villeneauve Development must pay a civil penalty of \$15,000 by May 9, 2011, which is the first business day following the 30th day after the date of this order. Villeneauve Development 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 number, case name, and Villeneauve Development's federal employer identification number must be included on the certified check or money order.
- 3. Villeneauve Development 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

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

Environmental Bureau Illinois Attorney General's Office 69 W. 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. Villeneauve Development must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

## 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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on April 7, 2011, by a vote of 5-0.

In T. Therrian

John Therriault, Clerk Illinois Pollution Control Board