

turbid, discolored, and odorous waters in an unnamed tributary of Middle Creek and a roadside ditch along County Road 1700E.

On January 10, 2010, the People and both respondents 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)). By order of January 20, 2011, the Board caused publication of newspaper notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Notice was published in the *Hancock-Henderson Quill* on February 9, 2011. No one requested hearing.

But, in again reviewing the stipulation, on March 3, 2011 the Board entered an order noting that there was an inconsistency between the complaint and the stipulation. Specifically, the statement of alleged violations in the stipulation failed to include count IV of the complaint. In accord with precedent, the Board directed that the parties reconcile the inconsistency in an additional filing. *See, e.g., People v. Swinson*, PCB 10-08, slip op. at 2 (June 17, 2010); *People v. Village of Rockton*, PCB 09-104, slip op. at 1-2 (Nov. 19, 2009). The Board directed the parties to address the inconsistency by April 4, 2011. On April 21, 2011, the Board granted the People's April 19, 2011 request for an extension of time; and the Board granted an extension through May 23, 2011.

On April 22, 2011, the People filed a motion for leave to file a substitute stipulation (Mot.). Mot. at 1. The revised stipulation makes clear that the respondent admits the violations of all 4 counts of the complaint, and agrees to pay a civil penalty of \$5,500.00.

The Board grants the People's motion to file a substitute stipulation clarifying that count IV is part of the stipulation. The Board notes that the inclusion of a particular alleged violation might be significant to a citizen who is reading a proposed settlement and considering whether to demand a hearing. *See* 415 ILCS 5/31(c)(2) (2008); 35 Ill. Adm. Code 103.302.

The Board directs the Clerk to provide newspaper notice of the substitute stipulation and proposed settlement, as so clarified, as well as the 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).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 5, 2011, by a vote of 5-0.



John Therriault, Assistant Clerk

Illinois Pollution Control Board