ILLINOIS POLLUTION CONTROL BOARD January 5, 2012

| PEOPLE OF THE STATE OF ILLINOIS, |) | |
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| Complainant, |) | |
| v. |) | PCB 09-131 |
| MOHAMMAD AKRABAWI, d/b/a DEERFIELD CROSSINGS, LLC, |) | (Enforcement – Water) |
| Respondent. |) | |

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

On June 29, 2009, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Mohammad Akrabawi, d/b/a Deerfield Crossing, LLC (Akrabawi). The complaint concerns Akrabawi's 147-acre Deerfield Crossings housing subdivision (site) located at the southeast quadrant of the intersection of Illinois Route 23 and U.S. Route 30 on the east side of the Village of Waterman in DeKalb 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 (2010)), 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 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that Akrabawi caused water pollution and created a water pollution hazard by maintaining substandard runoff containment systems at the site in violation of Section 12(a) and 12(d) of the Act (415 ILCS 5/12(a) and 5/12(d) (2010)). The People also allege that Akrabawi failed to comply with the requirements of his NPDES permit, failed to post notification of coverage, and failed to have a storm water pollution prevention plan available at the site. These activities were in violation of Part IV.D.2 (a), Part II.D.2, and Part IV.B.1 of NPDES Permit No. ILR10F194, 35 Ill. Adm. Code 309.102(a), and Section 12(f) of the Act, 415 ILCS 5/12(f) (2010).

On November 21, 2011, the People and Akrabawi 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) (2010)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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 DeKalb Daily Chronicle on December 5, 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. *See* 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 Akrabawi'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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Under the stipulation, Akrabawi 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) (2010)), which may mitigate or aggravate the civil penalty amount. Akrabawi agrees to pay agrees to pay a civil penalty of \$5,000.00. The People and Akrabawi 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. Mohammad Akrabawi, d/b/a Deerfield Crossing, LLC must pay a civil penalty of \$5,000.00 on or before February 6, 2012, which is the first business day following the 30th day after the date of this order. Akrabawi 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 Akrabawi's federal tax identification number must appear on the face of the certified check or money order.
- 3. The \$5,000.00 payment required by the stipulation to be made to Illinois Environmental Protection Agency shall be made by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The payment shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency Fiscal Services 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62794-9276

The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order. A copy of each certified check or money order and any transmittal letter shall be sent to:

Zemeheret Bereket-Ab 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) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).

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, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 5, 2012, by a vote of 5-0.

John Therriault, Assistant Clerk

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Illinois Pollution Control Board