## ILLINOIS POLLUTION CONTROL BOARD March 15, 2012

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	) ) )	
V.	Ĵ	PCB 12-119
	)	(Enforcement – Water)
EVERGREEN FS, INC., an Illinois	)	
agricultural cooperative,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by T.A. Holbrook):

On February 28, 2012, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Evergreen FS, Inc. (Respondent), an agricultural cooperative and distributor of agricultural chemicals and seeds and operator of grain elevators. The complaint concerns a 27 acre corn field located northeast of the City of Washington in Section 13 of Washington Township, Tazewell County. Accompanying the complaint was a stipulation, proposal for settlement, and request for relief from the hearing requirement. The parties therefore seek to settle the complaint without a hearing. For the reasons below, the Board accepts the complaint and directs the Clerk to provide public notice of the stipulation, proposed settlement, and request for hearing relief.

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 Respondent violated Sections 12(a) and 12(d) of the Act (415 ILCS 5/12(a), 12(d) (2010)), and Section 302.210 of the Board's regulations (35 Ill. Adm. Code 302.210). The complaint alleges that Respondent violated these provisions by causing, threatening, or allowing the discharge of agricultural chemicals into the environment so as to cause or tend to cause water pollution; by causing the discharge of toxic substances into the waters of the state; by applying herbicides in a manner that left deposits on both the ground and the stream bank and created a water pollution hazard; and by causing the death of fish or aquatic life. The Board finds that the complaint meets the applicable content requirements of the Board's procedural rules and accepts the complaint. *See* 35 Ill. Adm. Code 103.204(c).

On February 28, 2012, simultaneously with the People's complaint, 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) (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). Under the proposed stipulation, the Respondent neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$11,000.00 and an additional \$1,206.33 for the value of the fish killed and expenses incurred by the Illinois Department of Natural Resources's investigation of the fish kill.

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 parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2010); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

## IT IS SO ORDERED.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 15, 2012, by a vote of 5-0.

John T. Theriaut

John T. Therriault, Assistant Clerk Illinois Pollution Control Board