ILLINOIS POLLUTION CONTROL BOARD April 2, 2015

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
Complainant,		
V.)	PCB 15-154
)	(Enforcement - Water
FITNESS INTERNATIONAL, LLC,)	
a California limited liability company, and)	
C.E. GLEESON CONSTRUCTORS,)	
INC., a Michigan corporation,)	
)	
Respondents.)	

ORDER OF THE BOARD (by D. Glosser):

On January 30, 2015, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Fitness International, LLC and C.E. Gleeson Constructors, Inc. (collectively, respondents). The complaint concerns respondents' LA Fitness gym located at 265 Army Trail Road, Glendale Heights, DuPage 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 (2012)), 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 (2012); 35 Ill. Adm. Code 103. In this case, the People allege that respondents violated Sections 12(a), 12(d), and 12(f) of the Act, 415 ILCS 5/12(a), (d), and (f) (2012), Sections 302.203, 309.102(a), and 305.102(b) of the Board Water Pollution Regulations, 35 Ill. Adm. Code 302.203, 309.102(a), and 305.102(b), and Parts III.A., 1 and 4, and IV.D.4.e of NPDES Permit ILR10R307. The complaint alleges that respondents violated these provisions by causing or allowing water pollution resulting in a water pollution hazard and offensive conditions. The complaint further alleges that respondents failed to submit reports. 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 January 30, 2015, simultaneously with the People's complaint, the People and 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) (2012)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2012)), 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 *Suburban Life* on February 20, 2015. 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) (2012); 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 respondent'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) (2012)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Respondents do not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2012)), which may mitigate or aggravate the civil penalty amount. Fitness International agrees to pay a civil penalty of \$4,000 and C.E. Gleeson agrees to pay a \$6,000 penalty. The People and respondents 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. Fitness International, LLC and C.E. Gleeson Constructors, Inc. (collectively, respondents) must each pay a civil penalty no later than May 4, 2015, which is the first busnienss day following the 30th day after the date of this order. Fitness International, LLC must pay a civil penalty of \$4,000 and C.E. Gleeson Constructors, Inc. must pay a civil penalty of \$6,000. Each respondents 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 and case number must appear on the face of the certified check or money orders.
- 3. Respondents 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

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

Jennifer A. Van Wie Assistant Attorney General 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) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
- 5. The Respondents shall cease and desist from future violations of the Act and Board Regulations that were the subject matter 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) (2012); *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 T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 2, 2015 by a vote of 5-0.

In T. Therian

John T. Therriault, Clerk Illinois Pollution Control Board