## ILLINOIS POLLUTION CONTROL BOARD August 25, 2016

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| ) | PCB 16-110<br>(Enforcement – Water) |
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## ORDER OF THE BOARD (by G.M. Keenan):

On June 9, 2016, the Office of the Attorney General filed a three-count complaint on behalf of the People of the State of Illinois. The complaint alleged that Casey's Retail Company, violated the Environmental Protection Act, Board regulations, and certain permit requirements. In particular, the People alleged that Casey's improperly managed soil, silt, and cement while constructing a new store in Peru, LaSalle County.

In particular, the People's complaint alleged that while constructing the new store, Casey's: (1) allowed soil-laden, silt-laden, and cement laden-water flow to enter the Peru stormwater system causing or tending to cause water pollution;<sup>2</sup> (2) deposited soil, silt, and cement onto land without proper containment, creating a water pollution hazard;<sup>3</sup> and (3) failed to present a stormwater pollution prevention plan, as the respondent's National Pollutant Discharge Elimination System (NPDES) permit requires.<sup>4</sup>

The People and Casey's have agreed to a stipulation and proposal for settlement.<sup>5</sup> The stipulation states that Casey's will pay a \$12,000 civil penalty, while not admitting the alleged violations.<sup>6</sup> Casey's new store in Peru has completed construction, so the People do not allege that Casey's is currently violating the Environmental Protection Act.<sup>7</sup>

The Environmental Protection Act requires the Board to hold a hearing when the People allege violations of its provisions.<sup>8</sup> However, when a settlement is reached, the Board may

<sup>&</sup>lt;sup>1</sup> People v. Casey's Retail Co., PCB 16-110 (June 9, 2016) (Complaint).

<sup>&</sup>lt;sup>2</sup> Complaint at 4 (alleging violation of 415 ILCS 5/12(a) (2014)).

<sup>&</sup>lt;sup>3</sup> Complaint at 5 (alleging violation of 415 ILCS 5/12(d) (2014)).

<sup>&</sup>lt;sup>4</sup> Complaint at 10 (alleging violation of 415 ILCS 5/12(f) (2014), 35 Ill. Adm. Code 305.102(b), 309.12(a), and NPDES Permit No. ILR10S598, which references the general NPDES permit for stormwater discharges (Exh. 1 to Complaint)).

<sup>&</sup>lt;sup>5</sup> People v. Casey's Retail Co., PCB 16-110 (Aug. 10, 2016) (Stipulation).

<sup>&</sup>lt;sup>6</sup> Stipulation at 2, 6.

<sup>&</sup>lt;sup>7</sup> *Id*. at 5.

<sup>&</sup>lt;sup>8</sup> 415 ILCS 5/31(c)(1) (2014) (hearing requirement).

relieve this requirement upon the motion of the People and the alleged violator. <sup>9</sup> The parties moved for this relief. <sup>10</sup>

Before it may grant the parties' motion, the Board must notify the public of the stipulation, proposed settlement, and request for relief. <sup>11</sup> The notice must be published in a newspaper of general circulation in LaSalle County. <sup>12</sup> If anyone files a written demand for a hearing within 21 days after receiving the notice, the Board will deny the parties' request for relief and hold a hearing. <sup>13</sup> The Board directs the Clerk to give this notice.

## IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 25, 2016, by a vote of 4-0.

John T. Therriault, Clerk

Illinois Pollution Control Board

<sup>&</sup>lt;sup>9</sup> 415 ILCS 5/31(c)(2) (2014) (relief from hearing requirement).

<sup>&</sup>lt;sup>10</sup> <u>People v. Casey's Retail Co.</u>, PCB 16-110 (Aug. 10, 2016) (Motion for relief from hearing requirement).

<sup>&</sup>lt;sup>11</sup> 415 ILCS 5/31(c)(2) (2014).

<sup>&</sup>lt;sup>12</sup> *Id.*, referencing 415 ILCS 5/31(c)(1) (2014).

<sup>&</sup>lt;sup>13</sup> 415 ILCS 5/31(c)(2) (2014).