ILLINOIS POLLUTION CONTROL BOARD July 26, 2017

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
•)	PCB 18-1
V.)	(Enforcement - Water)
KENNY CONSTRUCTION COMPANY,)	
an Illinois corporation)	
Respondent.)	

ORDER OF THE BOARD (by G.M. Keenan):

On July 14, 2017, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Kenny Construction Company (Kenny Construction). The complaint concerns Kenny Construction's construction project located near the intersection of York and Irving Park Roads in Bensenville, DuPage County. On July 19, 2017, the parties filed a stipulation, proposed settlement, and motion for relief from the hearing requirement. 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 (2016)), the Attorney General may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2016); 35 Ill. Adm. Code 103. In this case, the People allege that Kenny Construction violated Sections 12(a), 12(d), and 12(f) of the Act (415 ILCS 5/12(a), 12(d), 12(f) (2016)) and Section 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 309.102(a)). The People further allege that Kenny Construction committed these violations by causing, threatening, or allowing the discharge of sanitary wastewater into the environment so as to cause or tend to cause water pollution; by creating a water pollution hazard; and by causing, threatening, or allowing the discharge of contaminants from a point source into waters of the State without a National Pollutant Discharge Elimination System (NPDES) permit. The Board finds that the complaint meets the content requirements of the Board's procedural rules and accepts the complaint. *See* 35 Ill. Adm. Code 103.204(c).

On July 19, 2017, the People and Kenny Construction filed a stipulation and proposed settlement accompanied by a request for relief from the hearing requirements of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2016)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2016)), 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, Kenny Construction does not affirmatively admit the alleged violations and agrees to pay a civil penalty of \$17,500.

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 comment or demand for hearing within 30 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) (2016); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

Board Members C.M. Santos and B. K. Carter abstained.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 26, 2017, by a vote of 3-0.

Don A Brown, Clerk

Illinois Pollution Control Board

1) on a. Brown