

Discharge Elimination System (NPDES) permit; and (4) failing to maintain a storm water pollution prevention plan, implement the required storm water erosion controls and interim stabilization controls, and conduct the necessary inspections of storm water controls.

On May 16, 2008, the People filed two stipulations and proposed settlements, one with the District and one with CWI, each accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2006)). These filings are authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)), 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 stipulations, proposed settlements, and requests for relief. The newspaper notice was published in the *Pekin Daily Times* on June 4, 2008. The Board did not receive any requests for hearing. The Board grants the parties' respective requests for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2006); 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 a 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) (2006)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The stipulations also address the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2006)), which may mitigate or aggravate the civil penalty amount. The District does not affirmatively admit the alleged violations but agrees to pay a civil penalty of \$15,000. CWI does not affirmatively admit the alleged violations but agrees to pay a civil penalty of \$20,000. The People, the District, and CWI have satisfied Section 103.302. The Board accepts both stipulations and proposed settlements.

This opinion constitutes the Board's findings of fact and conclusions of law with respect to the District and CWI.²

ORDER

1. The Board accepts and incorporates by reference both stipulations and proposed settlements.
2. The District must pay a civil penalty of \$15,000 no later than August 11, 2008, which is the first business day following the 30th day after the date of this order.
3. CWI must pay a civil penalty of \$20,000 no later than August 11, 2008, which is the first business day following the 30th day after the date of this order.

² The case against Southwind continues. *See* n.1 above. However, as the Board today accepts the stipulations and proposed settlements involving the District and CWI, the caption of subsequent orders issued in this docket will not include the District or CWI.

4. The District and CWI each must pay the specified civil penalty in the manner provided in the respective settlements, payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund. The case name, case number and that respondent's federal employer identification number must be included on, as applicable, the certified check, money order, or electronic funds transfer.
5. The District and CWI must submit the respective civil penalty payments to:

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

The District and CWI each must send a copy of, as applicable, the certified check, money order, or record of electronic funds transfer and any transmittal letter to:

Michael D. Mankowski
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62702

6. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).

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) (2006); *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 July 10, 2008 by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John Therriault, Assistant Clerk
Illinois Pollution Control Board