ILLINOIS POLLUTION CONTROL BOARD July 10, 2008

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 07-32 (Enforcement - Water)
SOUTHWIND CONSTRUCTION CORP.,)	(Emoreement - water)
an Indiana corporation,)	
5)	
Respondent.)	

ORDER OF THE BOARD (by T.E. Johnson):

On November 1, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Lake Arlann Drainage District (District), Cochran & Wilken, Inc. (CWI), and Southwind Construction Corp. (Southwind) (collectively respondents). The complaint concerns alleged violations resulting from a dredging operation to remove approximately 330,000 cubic yards of accumulated sedimentation and siltation from Lake Arlann, Pekin, Tazewell County. In a separate stipulation, Southwind now seeks to settle with the People without a hearing. Neither the District nor CWI is a party to this stipulation. For the reasons below, the Board directs the Clerk to provide public notice of the stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), 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 (2006); 35 Ill. Adm. Code 103. In this case, the People allege that respondents violated Sections 12(a), (f), and 21(a) of the Act (415 ILCS 5/12(a), (f), 21(a) (2006)) and Sections 302.203, 304.124(a), 305.102(b), 309.102(a), and 309.146(a) of the Boards water pollution regulations (35 Ill. Adm. Code 302.203, 304.124(a), 305.102(b), 309.102(a), 309.146(a)). The People further allege that respondents violated these provisions by (1) causing, allowing, or threatening the discharge of suspended solids, silt, sediment, and other contaminants to waters of the State so as to cause or tend to cause water pollution; (2) causing or allowing discharges of total suspended solids in excess of permitted and generally applicable effluent limits; (3) failing to monitor effluent and

District, Cochran & Wilken, Inc., and Southwind Construction Corp., PCB 07-32 (July 10, 2008). On May 16, 2008, the People filed the two stipulations and proposed settlements, one with the District and one with CWI, each accompanied by a request for relief from the hearing

requirement. Southwind is not a party to either of those stipulations.

¹ The caption of this order does not include the District or CWI. In a separate order issued today in this docket, the Board granted motions for hearing relief and accepted the stipulations and proposed settlements involving the District and CWI. See People v. Lake Arlann Drainage

timely submit effluent sampling reports as required by the Districts' National Pollutant 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 June 25, 2008, the People and Southwind 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) (2006)). This filing is 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). Under the proposed stipulation, Southwind does not affirmatively admit the alleged violations but agrees to pay the sum of \$2,500.

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 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) (2006); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 10, 2008, by a vote of 4-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board