ILLINOIS POLLUTION CONTROL BOARD September 30, 2008

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
V.)
)
LENZINI EXCAVATING COMPANY, an)
Illinois corporation,)
)
Respondent.)

PCB 09-8 (Enforcement – Water)

ORDER OF THE BOARD (by N.J. Melas):

On July 28, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Red Seal Development Corporation (Red Seal) and Lenzini Excavating Company (Lenzini) (collectively respondents).¹ The complaint concerns respondents' construction activities on an approximately 14.24-acre parcel of land known as "Deer Park Estates," located at the intersection of Long Grove Road and Quentin Road in Deer Park, Lake County. In a separate stipulation, the People and Lenzini now seek to settle without a hearing. Red Seal is not a party to this stipulation.² 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 Lenzini violated Section 12(a) and (d) of the Act (415 ILCS 5/12(a), (d) (2006)) and Section 302.203 of the Board's water pollution regulations (35 Ill. Adm. Code 302.203). The People further allege that Lenzini violated these provisions by (1) causing, threatening, or allowing the discharge of contaminants so as to cause or tend to cause water pollution in surrounding wetlands and an unnamed tributary of Buffalo Creek; (2) causing, threatening, or allowing the discharge of contaminants that caused unnatural color and turbidity in surrounding wetlands and an unnamed tributary of Buffalo Creek; and (3) creating a

¹ Counts I through III of the complaint were alleged against both respondents while counts IV and V were alleged against only Red Seal.

² The caption of this order does not include Red Seal. In a separate order issued today in this docket, the Board granted a motion for hearing relief and accepted the stipulation and proposed settlement involving Red Seal. *See* <u>People v. Red Seal Development Corp. and Lenzini</u> <u>Excavating Co.</u>, PCB 09-8 (Sept. 30, 2008). On August 7, 2008, the People and Red Seal filed a stipulation, proposed settlement, and request for relief from the hearing requirement. Lenzini is not a party to that stipulation.

water pollution hazard by depositing contaminants in such place and manner that they were likely to be carried by stormwater runoff into surrounding wetlands and an unnamed tributary of Buffalo Creek.

On September 18, 2008, the People and Lenzini 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, Lenzini neither admits nor denies the alleged violations but agrees to pay a civil penalty in the amount of \$10,000.

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 September 30, 2008, by a vote of 4-0.

John T. Theriant

John Therriault, Assistant Clerk Illinois Pollution Control Board