

ILLINOIS POLLUTION CONTROL BOARD  
November 18, 2010

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 11-19
	)	(Enforcement - Water)
GERALD N. KNOBLAUCH, L.L.C.,	)	
an Illinois limited liability company, and	)	
BENDER LAND IMPROVEMENT, INC.,	)	
an Illinois corporation,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by G.T. Girard):

On November 8, 2010, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Gerald N. Knoblauch, L.L.C. (Knoblauch) and Bender Land Improvement, Inc. (Bender) (collectively, respondents). The complaint concerns a former swine production facility located along Brick Town Road in the Southeast Quarter of Section 17, T28N in Cazenovia Township, Woodford County. Accompanying the complaint was a stipulation, proposal for settlement, and request for relief from the hearing requirement. The parties therefore seek to settle the complaint without a hearing. 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 (2008)), 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 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that Knoblauch owns the former swine production facility and hired Bender to demolish the facility's buildings and convert the facility's old livestock lagoon into a pond. According to the complaint, respondents violated Section 12(a) of the Act (415 ILCS 5/12(a) (2008)) by causing, threatening, or allowing livestock manure to discharge into an unnamed tributary of Richland Creek; Section 302.203 of the Board's water pollution regulations (35 Ill. Adm. Code 302.203) by causing bottom deposits, odor, color, and turbidity of other than natural origin in the receiving waters of the facility; Section 12(d) of the Act (415 ILCS 5/12(d) (2008)) by placing excavated manure solids in piles on the outer edge of the old livestock lagoon without installing structures to contain any runoff from the piles, creating a water pollution hazard; and Section 12(f) of the Act (415 ILCS 12(f) (2008)) by allowing contaminated stormwater to discharge from the manure stockpiles and enter both an unnamed tributary to Richland Creek and Richland Creek itself without a National Pollutant Discharge Elimination System (NPDES) permit. The People further allege that pursuant to Section 42(c) of the Act (415 ILCS 5/42(c) (2008)), respondents must pay the reasonable value of the fish and aquatic life destroyed by the discharge of contaminated stormwater from the

manure stockpiles. The Board finds that the complaint meets the applicable content requirements of the Board's procedural rules and accepts the complaint. *See* 35 Ill. Adm. Code 103.204(c).

On November 8, 2010, simultaneously with the People's complaint, the People and respondents 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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 proposed stipulation states that the manure release killed approximately 156,870 fish and impacted Richland Creek for approximately 7.8 miles. Under the proposed stipulation, respondents admit the alleged violations, agree to pay a civil penalty of \$5,000, and also agree to pay \$20,699.68 to the State of Illinois Wildlife and Fish Fund for recovery of fish killed and investigation expenses.

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) (2008); 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 November 18, 2010, by a vote of 4-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board