

ILLINOIS POLLUTION CONTROL BOARD
July 7, 2011

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 11-55
)	(Enforcement - Water)
AMERICAN EXCAVATION & SEPTIC)	
SERVICES, INC., an Illinois corporation,)	
and CBS LEASING, L.L.C., an Illinois)	
limited liability company,)	
)	
Respondents.)	

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

On February 28, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against American Excavation & Septic Services, Inc. (AESS) and CBS Leasing, L.L.C. (CBS) (collectively, respondents). The complaint concerns a site located at 8937 West Stagecoach Trail, Galena, Jo Daviess County. The parties now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)¹), 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 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that respondents violated Sections 12(a), 12(b), 12(d), and 12(f) of the Act (415 ILCS 5/12(a), 12(b), 12(d), 12(f) (2010)) and Sections 404.101(a)(1) and (a)(2) of the Board's mine-related water pollution regulations (35 Ill. Adm. Code 404.101(a)(1), (a)(2)). According to the People, respondents violated these provisions in the following manner: (1) by allowing silt-laden water to be discharged from the site into a roadside ditch and a tributary to the Galena River, respondents caused or allowed water pollution; (2) by operating heavy construction equipment in their mining operations which was capable of causing or contributing to water pollution in the roadside ditch and the tributary to the Galena River, without first obtaining an Illinois Environmental Protection Agency-issued construction or operating permit; (3) by depositing contaminants upon the land in such place and manner so as to create a water pollution hazard; (4) by allowing the discharge of a contaminant into the waters of the State without a National Pollutant Discharge Elimination System (NPDES) permit for point source discharges; and (5) by preparing land for mining activities and constructing a mine-

¹ All citations to the Act will be to the 2010 compiled statutes, unless the provision at issue has been substantively amended in the 2010 compiled statutes.

related facility without a construction permit and by conducting mining activities without an operating permit.

On June 28, 2011, 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) (2010)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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, the respondents admit to the alleged violations and CBS agrees to pay a civil penalty of \$3,000, and AESS agrees to pay a civil penalty of \$5,000.

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) (2010); 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 7, 2011, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board