

ILLINOIS POLLUTION CONTROL BOARD
December 15, 2011

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 11-27
)	(Enforcement - Water)
SUD FAMILY LIMITED PARTNERSHIP, a)	
Wisconsin limited partnership,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by T.A. Holbrook):

On December 9, 2010, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Sud Family Limited Partnership (Sud). The complaint concerns Sud Business Park, which includes an automobile dealership property and an additional subdivision area on North Allen Road, at Illinois Route 6, in Peoria, Peoria County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that Sud violated Section 12(a) of the Act, (415 ILCS 5/12(a) (2010)), by causing, allowing, or threatening to cause water pollution by failing to provide adequate soil erosion and sediment control at the site, along with Section 12(f) of the Act, (415 ILCS 5/12(f) (2010)) and National Pollutant Discharge Elimination System (NPDES) permit ILR10E923 by failing to provide adequate soil erosion and sediment control, failing to have an adequate Storm Water Pollution Prevention Plan (SWPPP), failing to complete weekly and rainfall inspections at the required frequencies, and failing to submit Incidence of Non-Compliance (ION) reports.

On October 19, 2011, the People and Sud 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). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in *Peoria Journal Star* on November 15, 2011. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2010); 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 Sud'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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Sud neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2010)), which may mitigate or aggravate the civil penalty amount. SUD agrees to pay a civil penalty of \$9,000. The People and Sud have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Sud must pay a total civil penalty of \$9,000. Sud must make one penalty payment of \$4,500 within 30 days after the date on which the Board accepts the parties' stipulation, one penalty payment of \$2,250 within 90 days after the date on which the Board accepts the parties' stipulation, and one penalty payment of \$2,250 within 180 days after the date on which the Board accepts the parties' stipulation. Sud must pay each of the three civil penalty payments by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name, case number, and Sud's federal tax identification number must appear on the face of each of the certified checks or money orders.
3. Sud must submit each of the three payments of the civil penalty to:

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

Sud must also send a copy of each of the certified checks or money orders and any transmittal letters to:

Environmental Enforcement Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
5. Sud must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

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) (2010); *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 T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 15, 2011 by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board