

ILLINOIS POLLUTION CONTROL BOARD

August 7, 2008

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 09-11
	)	(Enforcement - Water)
ROCKFORD BLACKTOP CONSTRUCTION	)	
CO., an Illinois corporation, and WESTLAKE	)	
UTILITIES, INC.,	)	
	)	
Respondents.	)	

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

On August 4, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Rockford Blacktop Construction Co. (Rockford Blacktop) and Westlake Utilities Inc. (Westlake) (collectively respondents). The complaint concerns respondents' construction activities at a wastewater lagoon-type treatment plant ("WWTP") located in Winnebago County. In two separate stipulations, Rockford Blacktop and Westlake now seek to settle with the People without a hearing. For the reasons below, the Board accepts the complaint as meeting the content requirements of the Board's procedural rules. See 35 Ill. Adm. Cod 103.204(c), (f). Additionally, the Board further directs the Clerk to provide public notice of the two stipulations, proposed settlements, and requests 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), 12(d) and 12(f) of the Act (415 ILCS 5/12(a), (d), (f) (2006)), and Section 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 309.102(a)). The People allege that respondents violated these provisions by (1) causing, threatening or allowing the discharge of sediment into the environment so as to cause or tend to cause water pollution in Illinois; (2) creating a water pollution hazard by causing or allowing sediment to be deposited on land at the WWTP without taking measures to prevent sediment from entering into Coolidge Creek, a tributary to the Pecatonica River; and (3) causing or allowing ten acres of land at the WTTP to be disturbed without first obtaining coverage under a National Pollutant Discharge Elimination System (NPDES) general storm water permit. The Board accepts the complaint. See 35 Ill. Adm. Code 103.204.

On August 4, 2008, the People also filed two stipulations and proposed settlements, one with Rockford Blacktop and one with Westlake, each 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)). These

filings are 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 between the People and Rockford Blacktop, Rockford Blacktop neither admits nor denies the alleged violations but agrees to pay a civil penalty of \$10,500. Under the proposed stipulation between the People and Westlake, Westlake does not affirmatively admit the alleged violations but agrees to pay a civil penalty of \$12,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of each 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 respective 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 August 7, 2008, by a vote of 4-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board