

ILLINOIS POLLUTION CONTROL BOARD  
May 7, 2009

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 08-62
	)	(Enforcement - Air)
CARRI SCHARF MATERIALS COMPANY	)	
d/b/a FARMDALE SAND & GRAVEL PIT,	)	
an Illinois corporation,	)	
	)	
Respondents.	)	

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

On April 7, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Carri Scharf Materials Company, d/b/a Farmdale Sand and Gravel Pit (Farmdale). See 415 ILCS 5/31(c)(1) (2006); 35 Ill. Adm. Code 103.204. The complaint concerns Farmdale’s settling pond and filtration pit at the Farmdale Sand and Gravel facility, located East Peoria, Tazewell County. The People and Farmdale now seek to settle without a hearing. For the reasons below, the Board accepts the parties’ stipulation and proposal for settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), 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 (2006); 35 Ill. Adm. Code 103. In this case, the People allege that respondent violated Sections 12(a), 12(d), and 12(f) of the Act (415 ILCS 5/12(a), 12(d), and 12(f) (2006), and 309.102(a) and 404.101(a)(1) of the Board’s Water Pollution Regulations (35 Ill. Adm. Code 309.102(a), 404.101(a)(1)), by causing or allowing the discharge of contaminants into waters of the state; by depositing contaminants upon the land to create a water pollution hazard; by causing or allowing the discharge of waste water without an National Pollution Discharge Elimination System (NPDES) permit; and, by causing or allowing a settling pond and filtration pit to discharge waste water into a receiving stream without an NPDES permit.

On March 19, 2009, the People and Farmdale filed a stipulation and proposal for 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). The Board provided notice of the stipulation and proposal for settlement, and request for relief in the *East Peoria Times-Courier* newspaper April 1, 2009. 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) (2006); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposals for settlement. *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 respondent'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) (2006)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Farmdale does not affirmatively admit the alleged violations.

The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2006)), which may mitigate or aggravate the civil penalty amount. Farmdale agrees to pay a civil penalty of \$7,000.00. The People and Farmdale have satisfied Section 103.302. The Board accepts the stipulation and proposal for 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. Carri Scharf Materials Company, d/b/a Farmdale Sand and Gravel Pit must pay a civil penalty of \$7,000 no later than June 8, 2009, which is first business day following the 30th day after the date of this order. Respondent must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Trust Fund. The case name, case number, and respondent's Federal Tax Identification Number must appear on the face of the certified check or money order.
3. Farmdale must submit payment 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

Respondent must send a copy of the certified check or money order and any transmittal letter to:

Environmental 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) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).
5. Farmdale must cease and desist from the alleged violations.

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) (2006); *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 Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 7, 2009, by a vote of 5-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board