

ILLINOIS POLLUTION CONTROL BOARD  
June 17, 1999

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 97-192  
) (Enforcement - Water)  
SUNDALE SEWER CORPORATION and )  
HOWARD SPURGEON, )  
)  
Respondents. )

OPINION AND ORDER OF THE BOARD (by N. J. Melas):

On May 14, 1999, the parties filed a stipulation and proposal for settlement. The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. The March 13, 1998 amended complaint in this matter alleged that respondents violated Sections 12(a), 12(b), 12(d), and 12(f) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), 12(b), 12(d), 12(f) (1996)). The amended complaint also alleged that respondents violated various sections of the Board's rules at 35 Ill. Adm. Code 302.102(b), 304.120(c), 304.121(a), 304.141(a), 305.102, 305.103, 306.303, 306.304, 306.305, and 309.208(a). The alleged violations of the Act and the Board's rules directly relate to numerous allegations of water pollution from respondents' operation of a wastewater treatment plant in Tazewell County, Illinois.

Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (1996)), the Board caused publication of the required newspaper notice of the stipulation and proposal for settlement and request for relief from the hearing requirement. The Board did not receive any requests for hearing. Accordingly, the Board grants a waiver of the hearing requirement.

The stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. Respondents agree to pay a total civil penalty of \$15,000. Complainant agrees to release respondents from any further penalties for the alleged violations of the Act and the Board's rules herein provided that respondents make timely payments of the \$15,000 penalty and follow the order below.

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

ORDER

1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and respondents Sundale Sewer Corporation

and Howard Spurgeon regarding alleged violations at respondents' wastewater treatment plant located on West Rosewood Street in the Sundale Hills Subdivision in Fondulac Township, Tazewell County, Illinois. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.

2. Respondents or Sundale Utilities, Inc., if and when Sundale Utilities, Inc. comes into existence as a successor corporation to Sundale Sewer Corporation, shall pay the total sum of \$15,000 in quarterly installments of \$3,750 pursuant to the following schedule:
  - a. \$3,750 within 90 days from the date of this final Board order approving the parties' stipulation and proposal for settlement;
  - b. \$3,750 on or before December 14, 1999;
  - c. \$3,750 on or before March 13, 2000; and
  - d. \$3,750 on or before June 11, 2000.

Such payments shall be made by certified check or money order payable to the "Treasurer of the State of Illinois, for deposit to the Environmental Protection Trust Fund." The case number and case name shall appear on the check (or money order). The federal employer identification number for Sundale Sewer Corporation (37-6031662) or Sundale Utilities, Inc., or the social security number for Howard Spurgeon (331-03-8620) shall also be included on the check (or money order).

3. Each check shall be sent by first class mail to:

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

A copy of each check shall be simultaneously sent by first class mail to:

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

4. Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act,

(35 ILCS 5/1003(a) (1996)), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

5. Respondents and/or Sundale Utilities, Inc. shall cease and desist from future violations of any federal, state, or local environmental statutes.
6. Respondents and/or Sundale Utilities, Inc. shall provide the Illinois Environmental Protection Agency with the following specific information regarding its sewer maintenance/cleaning program:
  - a. Frequency and methods that will be used; and
  - b. Records/log of sewer cleaning performed.

The frequency of maintenance and cleaning activities and methods that will be used shall be reported immediately to the Agency. Any updates or modifications made to the program shall be reported immediately to the Agency. Records or a log of the sewer cleaning performed shall be reported immediately to the Agency on a monthly basis, beginning immediately.

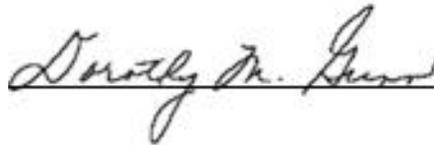
7. Respondents and/or Sundale Utilities, Inc. shall report to the Agency, within one working day, any incident of manhole pumping or other bypassing from the sewer system.
8. Respondents and/or Sundale Utilities, Inc. shall report to the Agency, within one working day, any reports/complaints made to the company of sewage back-ups into basements including the name, address, and phone numbers of the complaining party.
9. Any occurrence of bypassing, such as pumping from manholes or backups (unless caused by an extreme or catastrophic weather event) shall trigger respondents and/or Sundale Utilities, Inc. to proceed with the replacement of the Briargate lift station and offloading from the Summit lift station to the Briargate lift station. Anything below a three-inch rain in a 24 hour period followed by a week of dry weather will not be given consideration as an extreme or catastrophic weather event. These modifications to the Briargate lift station are described as the first phase of construction outlined in the engineering report attached as Exhibit A to the stipulation and proposal for settlement.
10. Respondents and/or Sundale Utilities, Inc. shall complete the work specified in Agency Construction Permit #1998-68 (6B)-2062, which is attached as Exhibit B to the stipulation and proposal for settlement.

11. Respondents and/or Sundale Utilities, Inc. must ensure that flow measurement and disinfection equipment shall be installed at the Robindale excess flow lagoon within six months of any occurrence of a discharge from the lagoon. Respondents and/or Sundale Utilities, Inc. must report such discharge to the Agency within one working day of the discharge.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1996)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 17th day of June 1999 by a vote of 7-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board