

ILLINOIS POLLUTION CONTROL BOARD

February 7, 2002

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| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 00-122 |
| |) | (Enforcement – Public Water Supply) |
| JOHN A. GORDON, P.E., and GORDON & |) | |
| PRICE, INC., |) | |
| |) | |
| Respondents. |) | |

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

On January 18, 2000, the Office of the Attorney General, on behalf of the People of the State of Illinois (complainant) filed a one-count complaint against respondents City of Lawrenceville (City), John A. Gordon, P.E. (Gordon), Gordon & Price, Inc. (G&P), David Guillaum d/b/a D&G Construction (Guillaum), and Wayne Lapington d/b/a Lapington Trucking and Excavating (Lapington). *See* 415 ILCS 5/31.1(c) (2000); 35 Ill. Adm. Code 108.202(c).

The complaint alleged that, by allowing the construction of water and sewer mains in the same trench within two feet of each other, respondents violated Sections 12(b), 15, 18(a)(1), and 18(a)(2) of the Environmental Protection Act (415 ILCS 5/12(b), 15, 18(a)(1), 18(a)(2) (2000)); Sections 309.202(a), 601.101, 602.101(a), 602.101(b), and 607.104(b) of the Board's regulations (35 Ill. Adm. Code 309.202(a), 601.101, 602.101(a), 602.101(b), and 607.104(b)); and Section 653.119(a)(1)(A) of the Illinois Environmental Protection Agency's regulations (35 Ill. Adm. Code 653.119(a)(1)(A)). The complaint concerns water and sewer mains in Lawrenceville, Lawrence County.

On August 16, 2000, complainant filed a request for relief from the hearing requirement and a stipulation and proposal for settlement with Guillaum and Lapington. On September 21, 2000, the Board granted the request for relief from the hearing requirement and accepted the stipulation and settlement for Guillaum and Lapington. On September 19, 2001, complainant filed a request for relief from the hearing requirement and a stipulation and proposal for settlement with the City. On October 18, 2001, the Board granted the request for relief from the hearing requirement and accepted the stipulation and settlement for the City.

On December 20, 2001, complainant, Gordon, and G&P filed a stipulation and proposal for settlement, accompanied by a motion requesting relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2000)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000)). *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 the *Lawrenceville Daily Record* on January 9, 2002. 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) (2000); 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. 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 Gordon's and G&P'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) (2000)). Complainant, Gordon, and G&P have satisfied Section 103.302. Gordon and G&P agree to jointly and severally pay a civil penalty of \$25,000. 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. Gordon and G&P must jointly and severally pay a civil penalty of \$25,000 no later than March 9, 2002, which is the 30th day after the date of this order. Gordon and G&P must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency for deposit into the Environmental Trust Fund. The case number, case name, and G&P's federal employer identification number must be included on the certified check or money order.
3. Gordon and G&P must send the certified check or money order to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. A copy of the check and payment transmittal shall simultaneously be submitted to:

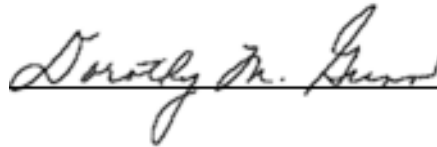
Donna Lutes
Illinois Attorney General's Office
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).

6. Gordon and G&P 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) (2000); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 7, 2002, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board