

ILLINOIS POLLUTION CONTROL BOARD

June 19, 2003

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.)
)
VILLAGE OF SIMS, an Illinois municipal) PCB 03-224
corporation; FOLLOWELL) (Enforcement - Public Water Supply)
CONSTRUCTION COMPANY, INC., an)
Illinois corporation; and LAMAC)
ENGINEERING COMPANY, an Illinois)
corporation,)
)
Respondents.)

ORDER OF THE BOARD (by T.E. Johnson):

On June 9, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against the Village of Sims, Followell Construction Company, Inc., and Lamac Engineering Company (the respondents). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that the respondents violated Sections 15 and 18(a)(1), (a)(2), and (a)(3) of the Environmental Protection Act (Act) (415 ILCS 5/15 and 18(a)(1), (a)(2), and (a)(3) (2002)) and 35 Ill. Adm. Code 601.101(b), 602.101(b), and 607.104(b) of the Public Water Supply regulations. The People further allege that the respondents violated these provisions by failing to provide required adequate separation between a water main and a sewer main. The complaint concerns the Village of Sims water main facility in Sims, Wayne County.

On June 12, 2003, the People and the Village of Sims and the People and Followell Construction Company, Inc. each 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) (2002)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)). *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. Under the first proposed stipulation, the Village of Sims neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$500 per month of noncompliance until compliance is achieved. Under the second proposed stipulation, Followell Construction Company, Inc. neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$5,000.

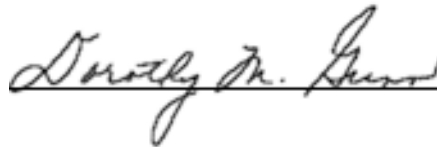
Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a

hearing. 415 ILCS 5/31(c)(2) (2000); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk of the Board to provide the required notice.

As to the remaining respondent, Lamac Engineering Company, the Board accepts the complaint for hearing. *See* 35 Ill. Adm. Code 103.212(c). A respondent's failure to file an answer to a complaint within 60 days after receiving the complaint may have severe consequences. Generally, if Lamac Engineering Company fails within that timeframe to file an answer specifically denying, or asserting insufficient knowledge to form a belief of, a material allegation in the complaint, the Board will consider Lamac Engineering Company to have admitted the allegation. 35 Ill. Adm. Code 103.204(d). The Board directs the hearing officer to proceed expeditiously to hearing.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 19, 2003, by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board