

ILLINOIS POLLUTION CONTROL BOARD  
October 16, 2003

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 04-24
	)	(Enforcement - Water)
TRI-K DEVELOPMENT, INC., an Illinois	)	
corporation,	)	
	)	
Respondent.	)	

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

On August 29, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Tri-K Development, Inc. (Tri-K Development). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. At issue is the People's allegation that Tri-K Development violated Section 12(a) and (f) of the Environmental Protection Act (Act) (415 ILCS 5/12(a) and (f) (2002)); 35 Ill. Adm. Code 302.203, 306.102, and 309.146; and National Pollutant Discharge Elimination System (NPDES) permit number ILR104445. The People further allege that Tri-K Development violated these provisions by engaging in construction activities without using adequate measures to control silt and erosion controls to prevent sediment from entering storm sewers that discharge into Prentiss Creek and the DuPage River. The complaint concerns Tri-K Development's construction activities at a six-acre development near the intersection of 59th Street and Interstate 355 in Lisle, DuPage County.

On September 5, 2003, the People and Tri-K Development 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. The Board published newspaper notice in the Lisle Sun on September 19, 2003. 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) (2002); 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 Tri-K Development'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) (2002)). The People and Tri-K Development have satisfied Section 103.302. Tri-K Development neither admits nor denies the alleged violations, but agrees to pay a civil penalty of \$7,500. The Board accepts the stipulation and proposed settlement.

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

### **ORDER**

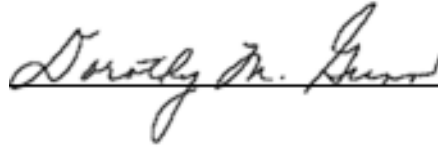
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Tri-K Development must pay a civil penalty of \$7,500 no later than November 15, 2003, which is the 30th day after the date of this order. Tri-K Development must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Tri-K Development's social security number or federal employer identification number must be included on the certified check or money order.
3. Tri-K Development 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. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. Tri-K Development 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) (2002); *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 October 16, 2003, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board