ILLINOIS POLLUTION CONTROL BOARD November 6, 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
Complamant,)	
v.)	PCB 03-53
)	(Enforcement - Water)
NORTHERN BUILDING CONCEPTS, INC.,)	
an Illinois corporation, and LANDSCAPE)	
CONCEPTS CONTRUCTION, INC., an)	
Illinois corporation,)	
)	
Respondents.)	

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

On October 24, 2002, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Northern Building Concepts, Inc., and Landscape Concepts Construction, Inc. (respondents). *See* 415 ILCS 5/31(c)(1) (2002), *amended by* P.A. 93-152, eff. July 10, 2003; 35 Ill. Adm. Code 103.204. The People allege that respondents violated Sections 12(a), (d), and (f) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), (d), (f) 2002)) and 35 Ill. Adm. Code 302.203. The People further allege that respondents violated these provisions by causing or allowing the discharge of storm water containing silt or sediment; causing or allowing a water pollution hazard at a tributary to wetlands; and discharging storm water without an National Pollutant Discharge Elimination System permit. The complaint concerns respondents' development of a residential site known as Depot Landings in Antioch, Lake County.

On September 29, 2003, the People and respondents 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 III. 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 *Antioch News-Reporter* on October 10, 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) (20003); 35 III. 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 respondents' 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 respondents have satisfied Section 103.302. Respondents neither admit nor deny the alleged violations and agree to pay a civil penalty of \$12,500. 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. Respondents must pay a civil penalty of \$12,500 no later than December 12, 2003, which is the 30th day after the date of this order. Respondents must pay \$10,000 of that penalty by certified check or money order payable to the "Illinois Environmental Protection Agency" and designated to the Environmental Trust Fund. The case number, case name, and respondents' federal employer identification number must be included on the certified check or money order.
- 3. Respondents must send the certified check or money order 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

Respondents must send a copy of the check to:

Joel Sternstein Assistant Attorney General Environmental Bureau 188 West Randolph Street, 20th Floor Chicago, Illinois 60601

- 4. Respondents must pay the remaining \$2,500 of that penalty by certified check or money order payable to the "Lake County State's Attorneys Office/Lake County Treasurer." The case number, case name, and respondents' federal employer identification number must be included on the certified check or money order.
- 3. Respondents must send the certified check or money order by first class mail to:

Mr. Lisle Stalter Lake County State's Attorney's Office 18 N. County Street Waukegan, Illinois 60085

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. Respondents 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 November 6, 2003, by a vote of 6-0.

Dorothy M. Gunn, Clerk Illinois Pollution Control Board

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