

ILLINOIS POLLUTION CONTROL BOARD

October 7, 2004

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 04-227
)	(Enforcement - Water)
ROGERS DEVELOPMENT COMPANY, an)	
Illinois corporation,)	
)	
Respondent.)	

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

On June 30, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Rogers Development Company (Rogers). Rogers is a developer of residential homes. The complaint concerns Rogers' residential development at the Lyford Oaks subdivision, located on the west side of Lyford Road, north of State Street in Rockford, Winnebago County. The parties now seek to settle without a public hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2002)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. See 415 ILCS 5/31 (2002); 35 Ill. Adm. Code 103. In this case, the People allege that Rogers violated Section 12(f) of the Act (415 ILCS 5/12(f) (2002)) by failing to install adequate storm water controls and implement improvements when excessive erosion was evident at its site, in violation of the general National Pollutant Discharge Elimination System (NPDES) permit for construction site activities.

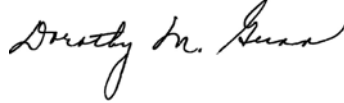
On September 22, 2004, the People and Rogers filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2002)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. See 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Rogers admits the alleged violation and agrees to pay a civil penalty of \$5,000, which the parties stipulate is at least as great as Rogers' economic benefit from delayed compliance.

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. *See* 415 ILCS 5/31(c)(2) (2002); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 7, 2004, by a vote of 4-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board