

ILLINOIS POLLUTION CONTROL BOARD

April 21, 2005

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Petitioner,)	
)	
v.)	
)	PCB 04-138
PINNACLE CORPORATION d/b/a)	(Enforcement - Water)
TOWN & COUNTRY HOMES,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On February 2, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against the Pinnacle Corporation d/b/a Town & Country Homes (respondent). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that respondent violated Sections 12(a), (c), (f), 15(a), and 18(a) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), (c), (f), 15(a), and 18(a) (2002)) and 35 Ill. Adm. Code 309.102(a), 309.202(a), 602.101(a), and 652.101(a). The People further allege that respondent violated these provisions by disturbing wetlands, providing inadequate erosion control, pumping stormwater into the wetlands, and failing to obtain requisite sewer and public water supply permits. The complaint concerns respondent's residential construction site at Gilmer Road in Wauconda, Lake County.

On February 22, 2005, the People filed a motion to amend the complaint and indicated that the respondent does not object to the filing of the amended complaint. Mot. at 3. The amended complaint adds violations, which have occurred since the filing of the original complaint. The Board accepts the amended complaint. The amended complaint is a nine-count complaint which alleges that respondent violated Sections 12(a), (b), (c), (d), (f), 15(a), and 18(a) of the Act (415 ILCS 12(a), (b), (c), (d), (f), 15(a), and 18(a) (2002)) and 35 Ill. Adm. Code 302.203, 304.106, 309.102(a), 309.202(a), 602.101(a), and 652.101(a).

Also on February 22, 2005, the People and respondent 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. The newspaper notice was published in the *Wauconda Leader* on March 4, 2005. 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 respondent'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 respondent have satisfied Section 103.302. Respondent neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$80,000. 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. Pinnacle Corporation d/b/a Town & Country Homes (respondent) must pay a civil penalty of \$80,000 no later than May 25, 2005, which is the 30th day after the date of this order. Respondent must pay the civil penalty by certified check, money order, or wire transfer. The case number, case name, and respondent's social security number or federal employer identification number must be included on the certified check or money order.
3. Respondent must pay \$40,000 of the civil penalty payable to Illinois EPA and designated to the Illinois Environmental Protection Trust Fund. Respondent must send the certified check or money order for \$40,000 to:

Illinois Environmental Protection Trust Fund
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

4. Respondent must pay \$20,000 of the civil penalty payable to Illinois EPA and designated to the Hazardous Waste Fund. Respondent must send the certified check or money order for \$20,000 to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

5. Respondent must pay \$20,000 of the civil penalty payable the to Illinois Attorney General's Projects and Court Ordered Distribution Fund (801 Fund). Respondent must send the certified check or money order for \$20,000 to:

Michael C. Partee
Assistant Attorney General
Environmental Bureau/North
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601

- 6 A copy of each certified check, money order, or electronic funds transfer and any transmittal letter shall be sent to:

Michael C. Partee
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Floor
Chicago, Illinois 60601

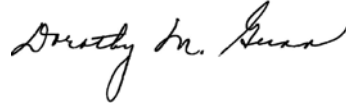
Charles Gunnarson
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

7. 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) (2002)).
8. Respondent 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 April 21, 2005, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board