

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JAN 31 2006

STATE OF ILLINOIS
Pollution Control Board

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.)
)
LOGSDON SAND AND GRAVEL, and)
M.K. O'HARA CONSTRUCTION, INC.,)
)
Respondents.)

AC 05-54

(IEPA No. 33-05-AC)

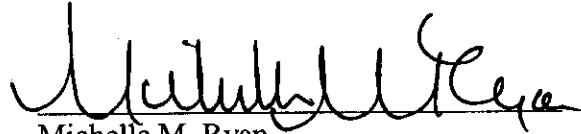
NOTICE OF FILING

To: Charles J. Northrup
Sorling, Northrup, Hanna, Cullen & Cochran
Suite 800 Illinois Building
607 East Adams
P.O. Box 5131
Springfield, IL 62705

M.K. O'Hara Construction, Inc.
c/o Madalyn O'Hara, President
U.S. Highway 67 South
R.R. #2, Box 104
Beardstown, IL 62618

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois the following instrument(s) entitled MOTION TO DISMISS RESPONDENT LOGSDON SAND AND GRAVEL AND FOR FINAL ORDER.

Respectfully submitted,



Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

Dated: January 26, 2006

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MOTION TO DISMISS RESPONDENT
LOGSDON SAND AND GRAVEL
AND FOR FINAL ORDER

NOW COMES the Complainant, the Illinois Environmental Protection Agency ("Illinois EPA"), by and through its attorney, Special Assistant Attorney General Michelle M. Ryan, pursuant to 35 Ill. Adm. Code 101.500, and respectfully states as follows:

(1) On February 10, 2005, Illinois EPA filed an Administrative Citation against Respondents RAY LOGSDON ESTATE, LOGSDON SAND AND GRAVEL, and M.K. O'HARA CONSTRUCTION, INC., based on an inspection conducted on December 15, 2004.

(2) On March 9, 2005, Respondent LOGSDON SAND AND GRAVEL filed a timely petition for review.

(3) On March 23, 2005, Illinois EPA filed a motion to voluntarily dismiss Respondent RAY LOGSDON ESTATE.

(4) On April 21, 2005, the Board entered an order dismissing Respondent RAY LOGSDON ESTATE and a default order against Respondent M.K. O'HARA CONSTRUCTION,

INC. The order held that Respondent M.K. O'HARA CONSTRUCTION, INC. had committed the violations alleged in the Administrative Citation: Sections 21(p)(1), 21(p)(4), and 21(p)(7) of the Environmental Protection Act ("Act"), 415 ILCS 5/21(p)(1), (4), and (7). However, the Board withheld final order as to Respondent M.K. O'HARA CONSTRUCTION, INC. "until the Board makes a final decision concerning LSG."

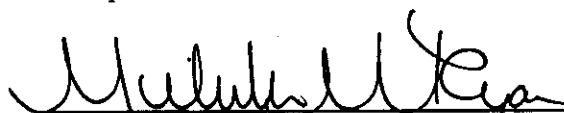
(5) Based on newly-discovered circumstances surrounding this case, Illinois EPA believes that it is now appropriate to dismiss this Administrative Citation against Respondent LOGSDON SAND AND GRAVEL.

(6) If the Board were to grant this motion to dismiss Respondent LOGSDON SAND AND GRAVEL, Respondent M.K. O'HARA CONSTRUCTION, INC. would be the only remaining Respondent and no impediment to immediate final order would exist.

WHEREFORE, the Illinois Environmental Protection Agency requests that the Board dismiss the pending action against Respondent LOGSDON SAND AND GRAVEL and enter a final order against M.K. O'HARA CONSTRUCTION, INC. pursuant to Section 31.1(d)(1) of the Act.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY,
Complainant

DATED: January 26, 2006


Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

PROOF OF SERVICE


I hereby certify that I did on the 26th day of January, 2006, send by U.S. Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box the following instrument(s) entitled MOTION TO DISMISS RESPONDENT LOGSDON SAND AND GRAVEL AND FOR FINAL ORDER

To: Charles J. Northrup
Sorling, Northrup, Hanna, Cullen &
Cochran
Suite 800 Illinois Building
607 East Adams
P.O. Box 5131
Springfield, IL 62705

M.K. O'Hara Construction, Inc.
c/o Madalyn O'Hara, President
U.S. Highway 67 South
R.R. #2, Box 104
Beardstown, IL 62618

and the original and nine (9) true and correct copies of the same foregoing instruments on the same date by U.S. Mail with postage thereon fully prepaid.

To: Dorothy Gunn, Clerk
Pollution Control Board
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601


Michelle M. Ryan
Special Assistant Attorney General

Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

THIS FILING SUBMITTED ON RECYCLED PAPER