

ILLINOIS POLLUTION CONTROL BOARD  
September 3, 2015

PEOPLE OF THE STATE OF ILLINOIS,	)	
by LISA MADIGAN, Attorney General of	)	
State of Illinois	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 10-20
	)	(Enforcement - Water)
MONTALBANO BUILDERS, INC., an	)	
Illinois corporation, CORTLAND-I-88, L.L.C.,	)	
an Illinois limited liability company, and MBC	)	
XIV, LLC, a revoked Delaware limited liability	)	
company, and RB RESOLUTION	)	
PROPERTIES, LLC, an Illinois limited	)	
liability company,	)	
	)	
Respondent.	)	

ORDER OF THE BOARD (by C.K. Zalewski):

On May 15, 2013, the People filed both a Motion for Leave to File Second Amended Complaint and a Second Amended Complaint (Comp.) in this matter naming Montalbano Builders, Inc., Cortland I-88, LLC, MCB XIV, LLC, RB Resolution Properties, LLC, and Douglas J. Johnson as respondents. The four count complaint concerns a residential subdivision, owned by Montalbano, known as “Mission Oaks,” located on the south side of Route 38 East near the intersection of Route 38 and Hahn Drive in Cortland, DeKalb County. On June 6, 2013, the Board accepted the complaint for hearing.

The Board granted a motion to voluntarily dismiss Douglas J. Johnson as a respondent on October 17, 2013. People v. Montalbano Builders, Inc, et. al., PCB 10-20 (Oct. 17, 2013). On August 19, 2015, the People filed a stipulation and proposal for settlement with Cortland I-88 (Cortland). None of the other three remaining parties were included in the proposal for settlement. The People and Cortland seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2014)), 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 (2014); 35 Ill. Adm. Code 103. In this case, the People allege that Cortland violated Section 12(a) of the Act (415

ILCS 5/12(a) (2014)) by causing, threatening or allowing water pollution from the Mission Oaks construction site into waters of the State.<sup>1</sup>

On August 19, 2015, the People and Cortland 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) (2014). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2014)), 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, Cortland neither admits nor denies the violations alleged in Count I of the second amended complaint but agrees to certain future compliance actions at the Mission Oaks site. The stipulation does not include a monetary penalty for Cortland, but instead Cortland must establish, and certify that it has established, ground cover at the Mission Oaks site. In consideration of Cortland's compliance actions at Mission Oaks, the People agree to release, waive and discharge Cortland from any further liability or penalties for the violations alleged in the complaint.

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 request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2014); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, Don A. Brown, Assistant Clerk, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on September 3, 2015 by a vote of 5 to 0.



Don A. Brown, Assistant Clerk  
Illinois Pollution Control Board

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<sup>1</sup> The People alleged only those violations included in Count I of the four-count second amended complaint against Cortland.