

ILLINOIS POLLUTION CONTROL BOARD
April 7, 2011

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 11 - 6
) (Enforcement - Water)
AMERICAN CONSTRUCTION, LLC, an)
Illinois limited liability company, and REAL)
ESTATE ELMHURST, LLC, an Illinois)
limited liability company,)
)
Respondents.)

ORDER OF THE BOARD (by G.L. Blankenship):

On August 9, 2010, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against American Construction, LLC, an Illinois limited liability company (ACL), and Real Estate Elmhurst, LLC, an Illinois limited liability company (REEL) (collectively “respondents”). The complaint concerns the respondents’ commercial business complex known as “Stone Cottage Shoppes” located at the northeast corner of Route 83 and North Avenue, Elmhurst, DuPage County (Site). REEL now seeks to settle without a hearing. ACL is not a party to this stipulation. 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 (2008)), 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 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that REEL violated the following provisions in the manner described: 1) Section 12(a) of the Act (415 ILCS 5/12(a) (2008)) by causing, threatening, or allowing the discharge of a contaminant into the environment so as to cause or tend to cause water pollution in Illinois (count I); Section 12(a) of the Act (415 ILCS 5/12(a) (2008)) and Section 302.203 of the Board’s water pollution regulations (35 Ill. Adm. Code 302.203 (2008)) by causing and allowing “offensive conditions” as defined in Section 302.203 of the Board’s water pollution regulations (35 Ill. Adm. Code 302.203 (2008)) (count II); Section 12(f) of the Act (415 ILCS 5/12(f) (2008)) and Section 309.102(a) of the Board’s water pollution regulations (35 Ill. Adm. Code 309.102(a) (2008)) by causing or allowing over one acre and less than five acres of land at the Site to be disturbed without first obtaining coverage under the NPDES storm water general permit for construction site activities prior to initiating such activities at the Site (count III); and Section 12(b) of the Act (415 ILCS 5/12(b) (2008)) and Section 309.202(a) of the Board’s water pollution regulations (35 Ill. Adm. Code 309.202(a) (2008)) by commencing and completing construction of a Sanitary Sewer without a permit from the Illinois Environmental Protection Agency (count IV).

On March 30, 2011, the People and REEL 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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, REEL admits the alleged violations and agrees to pay a civil penalty of \$1,000.

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) (2008); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 7, 2011, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board