

ILLINOIS POLLUTION CONTROL BOARD
March 6, 2003

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|----------------------------------|---|-----------------------|
| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 03-108 |
| |) | (Enforcement - Water) |
| VILLAGE OF KEENSBURG and DAVID |) | |
| DALLAS d/b/a DALLAS CONSULTING, |) | |
| ENGINEERING - SURVEYING, |) | |
| |) | |
| Respondents. |) | |

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

On January 22, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against the Village of Keensburg (Keensburg) and David Dallas, d/b/a Dallas Consulting, Engineering-Surveying (Dallas). See 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The People allege that Keensburg and Dallas violated Sections 15 and 18(a)(1) and (a)(2) of the Environmental Protection Act (Act) (415 ILCS 5/15, 18(a)(1) and (a)(2) (2002)) and Section 602.101 of the Board's regulations (35 Ill. Adm. Code 602.101). The People further allege that Keensburg and Dallas violated these provisions by failing to obtain a permit for the construction of a water well and failing to obtain a supplemental permit for the completion of another water well. In addition, the People allege that Keensburg failed to obtain a permit for operation of the wells and a rehabilitated water treatment plant. The complaint concerns Keensburg's water wells and water treatment plant in the Village of Keensburg in Wabash County.

On January 22, 2003, the People and each respondent filed separate stipulations and proposed settlements, 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)). These filings are 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 *Daily Republican-Register* on January 27, 2003. 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 Keensburg's and Dallas'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 the respondents have satisfied Section 103.302. Under the proposed Keensburg stipulation, Keensburg admits the alleged violations and agrees to pay a civil penalty of \$500. Under the

proposed Dallas stipulation, Dallas admits the alleged violations and agrees to pay a civil penalty of \$5,000. The Board accepts the stipulations and proposed settlements.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulations and proposed settlements.
2. Keensburg must pay a civil penalty of \$500 no later than March 22, 2003, which is the 30th day after the date of this order. Keensburg must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Keensburg's social security number or federal employer identification number must be included on the certified check or money order.
3. Dallas must pay a civil penalty of \$5,000 no later than March 22, 2003, which is the 30th day after the date of this order. Dallas must pay the civil penalty by certified check or money order, payable to the Environmental Protection Fund. The case number, case name, and Dallas's social security number or federal employer identification number must be included on the certified check or money order.
3. Keensburg and Dallas must send the certified checks or money orders to:

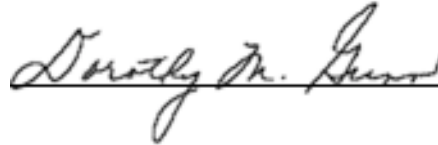
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. Keensburg and Dallas 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 March 6, 2003, by a vote of 6-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board