

ILLINOIS POLLUTION CONTROL BOARD

June 5, 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 01-150
)	(Enforcement - Water)
MARC DEVELOPMENT CORPORATION,)	
An Illinois corporation, and SILVER GLEN)	
ESTATES HOMEOWNERS')	
ASSOCIATION, a non-for-profit corporation.)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by M.E. Tristano):

On May 4, 2001, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Marc Development Corporation (respondent). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that respondent violated Sections 12(a), (b), (f) of the Act, and Section 309.102(a) of the Board regulations. The People further allege that respondent caused or allowed water pollution, operating and constructing permit violations, and discharge without a NPDES permit. The complaint concerns respondent's spray irrigation wastewater disposal system located at Silver Glen Estates off Whispering Trails Road, Elgin Township, Kane County.

On April 17, 2003, 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 from hearing. The Board published newspaper notice in *The Courier News* on May 1, 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 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 admits the alleged violations and agrees to pay a civil penalty of \$20,000. The Board accepts the stipulation and proposed settlement.

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

ORDER

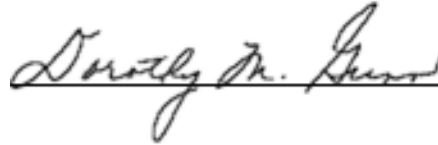
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Marc Development Corporation must pay a civil penalty of \$20,000 no later than July 5, 2003, which is the 30th day after the date of this order. Respondent must pay the civil penalty by certified check or money order, payable to the Environmental Protection Fund. 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 send the certified check or money order 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. 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 June 5, 2003, by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board