

ILLINOIS POLLUTION CONTROL BOARD
July 10, 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 03-147
)	(Enforcement - Water)
WESTFIELD HOMES OF ILLINOIS, an)	
Illinois corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by L.P. Padovan):

On March 13, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Westfield Homes of Illinois (Westfield Homes) alleging water pollution and National Pollutant Discharge Elimination System (NPDES) permit violations. *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. Westfield Homes is a home sales and building company located in Buffalo Grove, Lake County. The complaint concerns Westfield Homes’ residential development called Tiffany Farms, Phase II, Units 3 and 4, in Antioch, Lake County. The parties now seek to settle. For the reasons below, the Board accepts the parties’ stipulation and proposed settlement.

COMPLAINT

The People allege that Westfield Homes violated Section 12(a) of the Environmental Protection Act (Act) (415 ILCS 5/12(a) (2002)) and Section 302.203 of the Board’s regulations (35 Ill. Adm. Code 302.203) by causing or allowing silt-laden storm water from its construction site to flow into a wetland, which caused, threatened, or allowed water pollution. The People further allege that Westfield Homes violated Section 12(d) of the Act (415 ILCS 5/12(d) (2002)) by allowing dirt stockpiles to remain on the construction site without adequate erosion controls such that storm water containing dirt and silt contaminants flowed into the wetland, creating a water pollution hazard. In addition, the People allege that Westfield Homes violated Section 12(f) of the Act (415 ILCS 5/12(f) (2002)) and Section 309.146(a) of the Board’s regulations (35 Ill. Adm. Code 309.146(a)) by failing to implement adequate storm water pollution controls as required by the general NPDES permit for construction activities and failing to submit “Incidence of Noncompliance” reports to the Illinois Environmental Protection Agency.

WAIVER OF HEARING

On May 29, 2003, the People filed a stipulation and proposed settlement with Westfield Homes, 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)), which requires that the public have an opportunity to request a

hearing whenever the State and a respondent propose settling an enforcement action before the Board without a public hearing. *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 *Antioch News-Reporter* on June 6, 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).

STIPULATION AND PROPOSED SETTLEMENT

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. *See* 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 Westfield Homes' 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)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The People and Westfield Homes have satisfied Section 103.302. Westfield Homes neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2002)), which may mitigate or aggravate the civil penalty amount. Westfield Homes agrees to pay a civil penalty of \$15,000. 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. Westfield Homes must pay a civil penalty of \$15,000 no later than August 11, 2003, which is the first business day following the 30th day after the date of this order. Westfield Homes must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency, designated for deposit into the Environmental Protection Trust Fund. The case number, case name, and Westfield Homes' federal employer identification number must be included on the certified check or money order.
3. Westfield Homes must send the certified check or money order to:

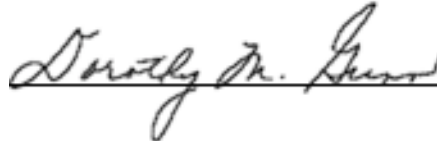
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the 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. Westfield Homes 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 July 10, 2003, by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board