

ILLINOIS POLLUTION CONTROL BOARD
April 21, 2005

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| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 05-86 |
| |) | (Enforcement - Water) |
| FAIRACRES SUBDIVISION |) | |
| ASSOCIATION, an Illinois not-for-profit |) | |
| corporation, |) | |
| |) | |
| Respondent. |) | |

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On November 9, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Fairacres Subdivision Association (Fairacres). See 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that the Fairacres violated Section 18(a)(2) and 19 of the Environmental Protection Act (Act) and Sections 611.121(a), 125, 325(a)(2), 522(a), 831, and 653.605 and 704 of the Board's public water supply regulations. 415 ILCS 5/18(a)(2), and 19 (2002); 35 Ill. Adm. Code 611.121(a), 125, 325(a)(2), 522(a), 831, and 653.605 and 704. The People further allege that the respondents violated these provisions by violating total-coliform regulations, failing to meet fluoridation requirements, and failing to submit the required reports and records. The complaint concerns the operation of a community water supply located in Silvis, Rock Island County.

On March 18, 2005, the People and Fairacres 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. The newspaper notice was published in *The Dispatch* and *The Rock Island Argus* on March 24, 2005. 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 Fairacres' 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 Fairacres have satisfied Section 103.302. Under the proposed stipulation, the respondent does not admit nor deny the allegations and agrees to pay a civil penalty of \$750. The Board accepts the stipulation and proposed settlement.

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

ORDER

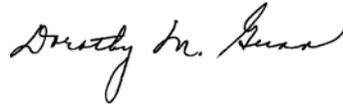
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Fairacres Subdivision Association (Fairacres) must pay a civil penalty of \$750 no later than May 21, 2005, which is the 30th day after the date of this order. Fairacres must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Fairacres' social security number or federal employer identification number must be included on the certified check or money order.
3. Fairacres 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. Fairacres 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 April 21, 2005, by a vote of 5-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board