

ILLINOIS POLLUTION CONTROL BOARD
June 2, 1994

LAKE COUNTY FOREST)	
PRESERVE DISTRICT,)	
)	
Complainant,)	
)	
v.)	PCB 92-80
)	(Enforcement)
NEIL OSTRO, JANET OSTRO,)	
and BIG FOOT ENTERPRISES,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by J. Theodore Meyer):

This matter is before the Board on a joint motion for acceptance of settlement agreement and entry of final order, filed by complainant Lake County Forest Preserve District (District) and respondents Neil Ostro, Janet Ostro, and Big Foot Enterprises (collectively, respondents) on May 27, 1994. The parties note that on March 31, 1994, the Board entered an interim opinion and order finding the respondents in violation of Sections 21(a), (e), (f)(1), and (m) of the Environmental Protection Act (Act). (415 ILCS 5/21(a), (e), (f)(1), and (m) (1992).) The Board ordered respondents to provide for further investigation, and any necessary remediation, of the property at the northwest corner of Sunshine Avenue and Route 45 in Lake Villa, Illinois. The Board also ordered that a further hearing be held on the issues of the amount and reasonableness of the District's costs in performing clean up at the property, and any other information necessary for the Board to award clean up costs and impose civil penalties.

The parties have subsequently negotiated and agreed to a settlement agreement and mutual release, attached to the motion as Exhibit A. The parties state that the settlement agreement is designed to resolve the dispute between the parties, and to fully comply with the Board's directives in the March 31, 1994 opinion and order. The agreement provides that respondents shall, within 14 days after the Board enters its final order, comply with the March 31 order by fully and completely remediating the property pursuant to applicable law and the specific directives set forth in Section 5 and Exhibit D of the settlement agreement. The agreement also provides that the District will receive a lump sum payment of \$117,500 in consideration of sums incurred in connection with the remediation of the property. The parties ask that the Board grant their joint motion, accept the settlement agreement, and enter a final order substantially the same as the proposed final order attached as Exhibit B to the motion.

The joint motion is granted. The Board has reviewed the settlement agreement, and finds it acceptable. The Board interprets the provision in the settlement agreement requiring that remediation of the property be done pursuant to applicable law to include approval of the remediation by the Illinois Environmental Protection Agency (Agency), including the securing of all necessary permits from the Agency.

Finally, on May 20, 1994, respondents filed a motion to vacate hearing date and enforce settlement agreement.¹ Based upon the subsequent filing of the joint motion, the May 20 motion is moot.

This opinion, and the Board's March 31, 1994 opinion, constitute the Board's findings of fact and conclusions of law in this matter.

ORDER

- 1) The Board hereby accepts the "Settlement Agreement and Mutual Release" executed by complainant Lake County Forest Preserve District (District) and respondents Neil Ostro, Janet Ostro, and Big Foot Enterprises (collectively, respondents) concerning the property located at the northwest corner of Sunshine Avenue and Route 45 in Lake Villa, Lake County, Illinois. The "Settlement Agreement and Mutual Release" are incorporated by reference as though fully set forth herein.
- 2) Pursuant to the Board's March 31, 1994 interim opinion and order, respondents shall: a) further investigate the environmental condition of the stockpiled soil and of the excavation pit on the property, and b) perform all necessary remediation of the stockpiled soil and of the excavation pit in the manner prescribed in the "Settlement Agreement and Mutual Release" within 14 days of the date of this order, or as soon thereafter as weather and site conditions permit. Respondents' remediation of the property shall be performed and conducted pursuant to all applicable laws.
- 3) The District shall receive, in the manner provided in the "Settlement Agreement and Mutual Release", a lump sum payment of \$117,500 as compensation for remediation

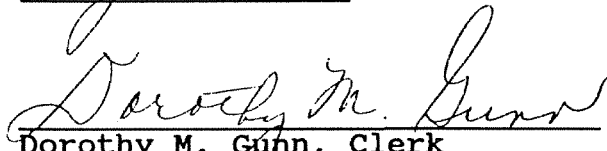
¹ The "settlement agreement" referred to in that motion is apparently based on discussions between the parties in fall 1993, and is not the same as the settlement agreement and mutual release which is the subject of the joint motion.

costs incurred by the District in connection with the remediation of the property.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1992)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration".)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 2nd day of June, 1994, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board