

ILLINOIS POLLUTION CONTROL BOARD  
October 3, 2002

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 03-23  
) (Enforcement – Public Water Supply)  
CITY OF DES PLAINES, an Illinois )  
municipal corporation, and MCDONOUGH )  
ASSOCIATES, INC., an Illinois corporation, )  
)  
Respondents. )

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

On August 29, 2002, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against the City of Des Plaines and McDonough Associates, Inc. (respondents). *See* 415 ILCS 5/31(c)(1) (2000) *as amended by* P.A. 92-0574, eff. June 26, 2002; 35 Ill. Adm. Code 103.204. The People allege that respondents violated Sections 15 and 18(a) of the Environmental Protection Act (Act) (415 ILCS 5/15, 18(a) (2000)) and 35 Ill. Adm. Code 602.101 and 602.102. The People further allege that respondents violated these provisions by failing to obtain permits for the construction and installation of a water main, and causing and allowing the operation of the water main without a permit from November 1, 1999 until August 31, 2000. The complaint concerns respondents' reconstruction of the Oakton Street water main in Des Plaines, Cook County.

Additionally on August 29, 2002, the People and respondents 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) (2000) *as amended by* P.A. 92-0574, eff. June 26, 2002). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000) *as amended by* P.A. 92-0574, eff. June 26, 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 *Des Plaines Journal* on September 4, 2002. 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) (2000) *as amended by* P.A. 92-0574, eff. June 26, 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) (2000)). The People and respondents have satisfied Section 103.302. Respondents neither admit nor deny the alleged violations, but agree to pay a civil penalty. Respondent City of Des Plaines agrees to pay the sum of \$15,000.

Respondent McDonough Associates, Inc. agrees to pay the sum of \$11,000. The Board accepts the stipulation and proposed settlement.

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

### **ORDER**

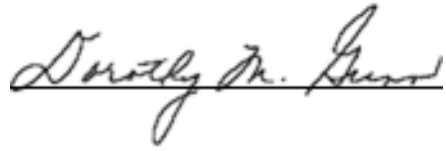
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. The City of Des Plaines and McDonough Associates, Inc. (respondents) must pay a civil penalty no later than November 3, 2002. Respondent City of Des Plaines must pay \$15,000. Respondent McDonough Associates, Inc. must pay \$11,000. Respondents must each pay its civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and respondents' social security number or federal employer identification number must be included on the certified check or money order.
3. Respondents must each send its 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) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
5. Respondents 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) (2000); *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 October 3, 2002, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board