

ILLINOIS POLLUTION CONTROL BOARD

May 2, 2002

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 02-161
)	(Enforcement - Water)
HOME DEPOT U.S.A., INC., a Delaware)	
corporation,)	
)	
Respondent.)	

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

On March 25, 2002, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Home Depot U.S.A., Inc. (Home Depot). *See* 415 ILCS 5/31(c)(1) (2000); 35 Ill. Adm. Code 103.204. The People allege that Home Depot violated Sections 12(a), (c), (d), and (f) of the Environmental Protection Act (Act), various Board regulations pertaining to water pollution, and provisions in its National Pollutant Discharge Elimination System permit. The People further allege that Home Depot violated these provisions by failing to implement appropriate soil erosion control measures at its construction site, installing a sewer line without a construction permit, and failing to conduct site inspections and submit reports. The complaint concerns the construction of a new Home Depot store located south of Route 12 and Hartigan Road in the Village of Volo, Lake County.

Additionally on March 25, 2002, the People and Home Depot 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)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000)). *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The newspaper notice was published in the *News Sun* on March 28, 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); 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 Home Depot'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 Home Depot have satisfied Section 103.302. Home

Depot does not admit the alleged violations, but agrees to pay a civil penalty of \$50,000 to the Environmental Protection Trust Fund and to make a one time payment of \$30,000 to the Redhead Lake Rehabilitation Fund #230. 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. Home Depot U.S.A., Inc. (Home Depot) must pay a civil penalty of \$50,000 no later than June 2, 2002, which is the 30th day after the date of this order. Home Depot must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. Also by June 2, 2002, Home Depot must make a one time payment of \$30,000 to the Lake County Health Department and Community Health Center (LCHD), earmarked for use in the Redhead Lake Rehabilitation Fund #230. The case number, case name, and Home Depot's social security number or federal employer identification number must be included on the certified check or money order.
3. Home Depot must send the \$50,000 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

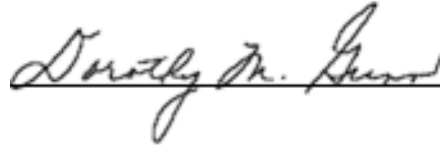
and the \$30,000 certified check or money order to:

Lake County Health Department and Community Health Center
Attention: Mark Pfister
3010 Grand Avenue
Waukegan, Illinois 60085
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. Home Depot 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 May 2, 2002, 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