

ILLINOIS POLLUTION CONTROL BOARD

January 5, 2006

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 06-44
)	(Enforcement - Public Water Supply)
WEIS BUILDERS, INC.,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On September 20, 2005, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Weis Builders, Inc. (Weis Builders). See 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns Weis Builders' Summer 2003 installation of a water main to serve a new Home Depot store at 143rd Street and Bell Road, Homer Township, Will County.¹ The parties now seek to settle. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2004)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. See 415 ILCS 5/31 (2004); 35 Ill. Adm. Code 103. In this case, the People allege that Weis Builders violated Section 18(a)(3) of the Act (415 ILCS 5/18(a)(3) (2004)) and 35 Ill. Adm. Code 602.101(a). The People further allege that Weis Builders violated these provisions by construction of a public water supply without a construction permit.

On November 7, 2005, the People and Weis Builders 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) (2004)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action 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 from hearing. The Board published newspaper notice in the *Homer Sun* on November 23, 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) (2004); 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

¹ The same installation is the subject of three other pending enforcement actions: People v. Home Depot, PCB 05-168; People v. Illinois-American Water Company, PCB 06-15; and People v. STS Consultants, PCB 6-48.

stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of Weis Builders' 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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

Weis Builders "does not affirmatively admit the allegations of violation." Stipulation and Proposal for Settlement at 3. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount. Weis Builders agrees to pay a civil penalty of \$10,000, which the parties stipulate negates Weis Builders' economic benefit from delayed compliance, if any.

The People and Weis Builders have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement. This docket is now closed.

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. Weis Builders must pay a civil penalty of \$10,000 no later than February 6, 2006, which is the first business day after the 30th day after the date of this order. Weis Builders must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Illinois Attorney General State Projects and Court Ordered Distribution Fund. The case number, case name, and Weis Builders's social security number or federal employer identification number must be included on the certified check or money order.
3. Weis Builders must send the certified check, money order, or electronic funds transfer to the following person at the indicated address:

Phyllis Dunton
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, Illinois 60601

4. Weis Builders must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following person at the indicated address:

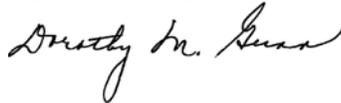
Zemeheret Bereket-Ab
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, Illinois 60601

5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
6. Weis Builders 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) (2004); *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 January 5, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board