

ILLINOIS POLLUTION CONTROL BOARD
March 16, 2006

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 05-204
)	(Enforcement - Water)
LAKE STREET DEVELOPMENT LLC,)	
)	
Respondent.)	

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

On June 6, 2005, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Lake Street Development L.L.C. (Lake Street Development). *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns Lake Street Development's construction project located on the corner of Lake Street and Central Street in Grayslake, Lake County. 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 Lake Street Development violated Sections 12(a), (b), and (f) of the Act (415 ILCS 5/12(a), (b), and (f) (2002)) and 35 Ill. Adm. Code 309.102(a) and 309.202(a). The People further allege that Lake Street Development violated these provisions by (1) modifying a sanitary sewer without a construction permit; and (2) engaging in construction activities without a National Pollutant Discharge Elimination System stormwater discharge permit.

On January 27, 2006, the People and Lake Street Development 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 *Grayslake Times* on February 10, 2006. 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 stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of

Lake Street Development'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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

Lake Street Development admits the alleged violations. 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. Lake Street Development agrees to pay a civil penalty of \$25,000, which the People assert will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

On January 27, 2006, the People and Lake Street Development 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)). *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, the Lake Street Development admits the alleged violations and agrees to pay a civil penalty of \$25,000.

The People and Lake Street Development 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. Lake Street Development, through its attorney of record, must pay a civil penalty of \$25,000 no later than April 17, 2006, which is the first business day after the 30th day after the date of this order. Lake Street Development must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Environmental Protection Trust Fund. The case number, case name, and Lake Street Development's social security number or federal employer identification number must be included on the certified check or money order.
3. Lake Street Development, through its attorney of record, must send the certified check, money order, or electronic funds transfer to the following person at the indicated address:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

4. Lake Street Development, through its attorney of record, must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following persons at the indicated addresses:

Ms. Bridget M. Carlson, Assistant Attorney General
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, Illinois 60601

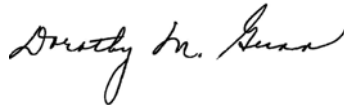
Mr. James Day, Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

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. Lake Street Development 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 March 16, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board