

ILLINOIS POLLUTION CONTROL BOARD
February 15, 2007

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 06-132
)	(Enforcement - Water)
LAKE POINTE ESTATES, LLC, an Illinois)	
limited liability company,)	
)	
Respondent.)	

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

On January 18, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Lake Pointe Estates, LLC, (Lake Pointe) concerning Lake Pointe's residential development in Springfield, Sangamon 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 (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 Pointe violated Section 12(f) of the Act (415 ILCS 5/12(f) (2004)) and 35 Ill. Adm. Code 309.102(a) by (1) engaging in construction activities that resulted in disturbances of more than one acre with inadequate measures or controls to prevent or minimize water pollution from stormwater runoff; and (2) causing, threatening, or allowing the discharge of contaminants into the waters of the State by failing to maintain adequate erosion controls.

On January 8, 2007, the People and Lake Pointe 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. The newspaper notice was published in the *State Journal Register* on January 13, 2007. 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. *See* 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 Pointe'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. The People and Lake Pointe have satisfied Section 103.302. Lake Pointe neither admits nor denies 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 Pointe agrees to pay a civil penalty of \$7,500. 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. Lake Pointe must pay a civil penalty of \$7,500 no later than March 19, 2007, which is the first business day following the 30th day after the date of this order. Lake Pointe must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund.
3. Lake Pointe must submit payment of the civil penalty to:

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

Lake Pointe must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to:

Peggy Poitevint
Environmental Bureau
Office of the Attorney General
500 South Second Street
Springfield, Illinois 62702

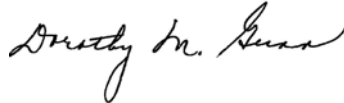
Thomas Andryk
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
5. Lake Pointe must cease and desist from future violations of the Act and Board regulations that were the subject of the complaint.

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 February 15, 2007, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board