

ILLINOIS POLLUTION CONTROL BOARD
November 20, 2008

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 09-2
)	(Enforcement – Water)
CENTERPOINT PROPERTIES TRUST, a)	
real estate investment trust, and FCL)	
INVESTORS, INC., an Illinois corporation)	
formerly known as FCL BUILDERS, INC.,)	
)	
Respondents.)	

ORDER OF THE BOARD (by N.J. Melas):

On July 3, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed an eight-count complaint against CenterPoint Properties Trust, a real estate investment trust, and FCL Investors, Inc., an Illinois corporation formerly known as FCL Builders, Inc. (respondents). The complaint concerns respondents’ construction activities at a 134-acre parcel of land known as the “Center Point Business Center,” located on the northwest corner of the intersection of Interstate 94 and Washington Street in the Village of Gurnee, Lake County. The People and respondents now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), the Attorney General and the State’s Attorneys may bring actions before the Board to enforce Illinois’ environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2006); 35 Ill. Adm. Code 103. In this case, the People allege that respondents violated Sections 12(a), (d), and (f) of the Act (415 ILCS 5/12(a), (d), (f) (2006)), Sections 302.203 and 309.102(a) of the Board’s water pollution regulations (35 Ill. Adm. Code 302.203, 309.102(a)), and numerous conditions of the National Pollutant Discharge Elimination System (NPDES) general stormwater permit. The People allege that respondents violated these provisions by (1) causing or tending to cause water pollution by failing to install adequate erosion and stormwater runoff control measures, causing or allowing the discharge of excessive soil- and sediment-laden stormwater runoff into waters of the State, including wetlands and an unnamed tributary of the Des Plaines River; (2) causing or allowing the discharge of soil- and sediment-laden stormwater, causing unnatural turbidity and color in waters of the State; (3) creating a water pollution hazard by depositing soil upon land without implementing adequate erosion and runoff control measures; (4) failing to sign the “storm water pollution prevention plan” (SWPPP); (5) failing to commence stabilization measures as soon as practicable after the temporary or permanent cessation of construction activities; (6) failing to submit “Incidence of Noncompliance” reports after observing violations of the SWPPP; (7) failing to include contractor or subcontractor certification in the SWPPP; and

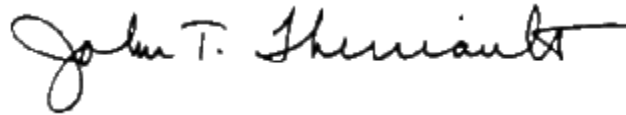
(8) discharging stormwater that caused or contributed to a violation of an applicable water quality standard.

On November 14, 2008, 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) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)), 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). Under the proposed stipulation, respondents neither admit nor deny the alleged violations but agree to pay a civil penalty of \$20,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2006); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 20, 2008, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board