

ILLINOIS POLLUTION CONTROL BOARD
February 18, 1999

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 99-102
) (Enforcement - Land)
THE SCOTTS COMPANY, an Ohio)
corporation,)
)
Respondent.)

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

On January 15, 1999, the parties filed a complaint accompanied by a stipulation and proposal for settlement. The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. The complaint alleged that the respondent violated Sections 21(d)(1) and 21(e) of the Environmental Protection Act (Act) (415 ILCS 5/21(d)(1), 21(e) (1996)); and 35 Ill. Adm. Code 830.202 (i)(4), 830.205(m)(1)(B) and (C), 830.210(a), and 830.504(a)(d); and Special Conditions 10(d), 16, 17, 33, and 37 of Permit No. 1996-338-REN, by operating a composting facility without a permit, treating landscape waste without a permit, and violating special permit conditions.

Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (1996)), the Board caused publication of the required newspaper notice of the stipulation and proposal for settlement and request for relief from the hearing requirement. The Board did not receive any requests for hearing. Accordingly, the Board grants a waiver from the hearing requirement.

The stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. The respondent admits the alleged violations and agrees to pay a civil penalty of \$5,000. Respondent must continue to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's regulations.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and The Scotts Company, an Ohio corporation, located at 1270 East Beecher Road, Kendall County, Illinois. The

stipulation and settlement agreement is incorporated by reference as though fully set forth herein.

2. The respondent shall pay a civil penalty of \$5,000 within 30 days of the date of this order. Such payment shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund. The case number, case name, and the respondent's federal employer identification number 31-1414921 shall also be included on the check (or money order) and should clearly indicate that payment is directed to the Environmental Protection Trust Fund.
3. The check (or money order) shall be sent by first class mail to:

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

A copy of the payment transmittal and check shall be simultaneously submitted to:

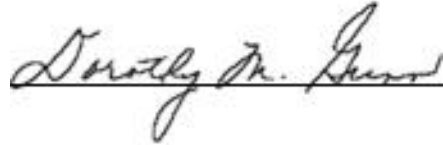
Alyssa Fron Newcomb
Assistant Attorney General
Environmental Bureau
Attorney General's Office
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601

4. Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.
5. Respondent shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1996)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. Illinois Supreme Court Rule 335 establish such filing requirements. See 172 Ill. 2d R. 335; see also Ill. Adm. Code 101.246, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 18th day of February 1999 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