ILLINOIS POLLUTION CONTROL BOARD October 15, 2009

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 09-30
MONTALBANO BUILDERS, INC., an)	(Enforcement - Water)
Illinois corporation,)	
Respondent.)	

ORDER OF THE BOARD (by G.L. Blankenship):

On November 6, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Montalbano Builders, Inc. (Montalbano). The complaint concerns Montalbano's development property known as the Huntington Ridge subdivision located on the southwest corner of Harvard Hills and Crowley Road in Harvard, McHenry County. The parties now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), ¹ 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 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that Montalbano violated Sections 12(a), (d), and (f) (415 ILSC 5/12(a), (d), (f) (2008)) and Section 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 309.102(a)). According to the complaint, Montalbano violated these provisions by (1) causing, threatening, or allowing the discharge of silt-laden runoff from the site into the waters of the State resulting in water pollution, (2) allowing disturbed soils and soil stockpiles with inadequate erosion controls to remain adjacent to wetland areas resulting in a water pollution hazard, and (3) failing to maintain adequate stormwater pollution prevention measures and discharging silt-laden runoff from the site into the adjacent wetland and waters of the State in violation of Montalbano's National Pollutant Discharge Elimination System (NPDES) permit.

On October 5, 2009, the People and Montalbano 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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

¹ All citations to the Act will be to the 2008 compiled statutes, unless the provision at issue has been substantively amended in the 2008 compiled statutes.

public hearing. *See* 35 III. Adm. Code 103.300(a). Under the proposed stipulation, the Montalbano neither admits or denies the alleged violations and agrees to pay a civil penalty of \$10,000.

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) (2008); 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 October 15, 2009, by a vote of 5-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board

John T. Therriant