

ILLINOIS POLLUTION CONTROL BOARD  
January 21, 2016

PEOPLE OF THE STATE OF ILLINOIS, )  
by LISA MADIGAN, Attorney General of )  
State of Illinois )  
)  
Complainant, )  
)  
v. ) PCB 10-20  
) (Enforcement - Water)  
MONTALBANO BUILDERS, INC., an )  
Illinois corporation, CORTLAND-I-88, L.L.C., )  
an Illinois limited liability company, and MBC )  
XIV, LLC, a revoked Delaware limited liability )  
company, and RB RESOLUTION )  
PROPERTIES, LLC, an Illinois limited )  
liability company, )  
)  
Respondent. )

ORDER OF THE BOARD (by C.K. Zalewski):

On May 15, 2013, the People filed a Second Amended Complaint (Comp.) in this matter naming Montalbano Builders, Inc., Cortland I-88, LLC, MCB XIV, LLC, RB Resolution Properties, LLC, and Douglas J. Johnson as respondents. The four count complaint concerns a residential subdivision, owned by Montalbano, known as “Chestnut Grove,” located on the south side of Route 38 East near the intersection of Route 38 and Hahn Drive in Cortland, DeKalb County.<sup>1</sup> On June 6, 2013, the Board accepted the complaint for hearing.

The Board granted a motion to voluntarily dismiss Douglas J. Johnson as a respondent on October 17, 2013. People v. Montalbano Builders, Inc., et. al., PCB 10-20 (Oct. 17, 2013). The Board accepted a stipulation and proposed settlement between the complainant and Cortland I-88, LLC in an October 15, 2015 order. People v. Montalbano Builders, Inc., et. al., PCB 10-20 (Oct. 15, 2015). On December 8, 2015, the People filed a stipulation and proposal for settlement with RB Resolution Properties, LLC (RB Resolution) and amended that filing on December 16, 2015. Neither Montalbano Builders, Inc. nor MCB XIV, LLC were included in the proposal for settlement. The People and RB Resolution 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.

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<sup>1</sup> RB Resolution’s answer to the second amended complaint along with the stipulation and proposed settlement refers to the location of the alleged violations as “Chestnut Grove subdivision” rather than “Mission Oaks” as mentioned in the second amended complaint. Chestnut Grove is located near Mission Oaks in Cortland, DeKalb County.

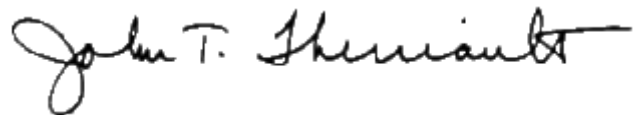
Under the Environmental Protection Act (Act) (415 ILCS 5 (2014)), the Attorney General may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2014); 35 Ill. Adm. Code 103. In this case, the People allege that RB Resolution violated Section 12(a) of the Act (415 ILCS 5/12(a) (2014)) by causing, threatening or allowing water pollution from the Chestnut Grove construction site into waters of the State.<sup>2</sup>

On December 16, 2015, the People and RB Resolution filed a stipulation and proposed settlement (Stip.), accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act. 415 ILCS 5/31(c)(1) (2014). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2014)), 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, RB Resolution neither admits nor denies the violations alleged in Count I of the second amended complaint but agrees to certain future compliance actions at the Chestnut Grove site. The stipulation does not include a monetary penalty for RB Resolution, but instead RB Resolution must complete all work tasks identified in the Illinois Environmental Protection Agency approved Site Management Plan for Chestnut Grove. Stip. at 6. In consideration of RB Resolution's compliance actions at Chestnut Grove, the People agree to release, waive and discharge RB Resolution from any further liability or penalties for the violations alleged in the complaint.

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 request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2014); 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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 21, 2016 by a vote of 5-0.



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John Therriault, Clerk  
Illinois Pollution Control Board

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<sup>2</sup> The People alleged only those violations included in Count I of the four-count second amended complaint against RB Resolution.