

ILLINOIS POLLUTION CONTROL BOARD
January 6, 2011

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 11-20
)	(Enforcement - Water)
CITY OF COLCHESTER, an Illinois)	
municipal corporation,)	
)	
Respondent.)	

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

On November 8, 2010, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against the City of Colchester (Colchester), which is located approximately seven miles west of Macomb in McDonough County. The complaint concerns Colchester’s sewage treatment plant and overflows that occurred at Colchester’s Bishop Street, Cole Street, and North Street lift stations in association with a 2.5-inch rainfall. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties’ stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), the Attorney General and the State’s Attorney 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 Colchester violated Sections 12(a), 12(d), and 12(f) of the Act (415 ILCS 5/12(a), 12(d), 12(f) (2008)); Sections 304.141(a), 306.102(a), 306.102(b), 306.304, and 309.102(a) of the Board’s water pollution regulations (35 Ill. Adm. Code 304.141(a), 306.102(a), 306.102(b), 306.304, 309.102(a)); and special condition 11 of Colchester’s National Pollutant Discharge Elimination System (NPDES) permit.

According to the complaint, respondent violated these provisions by (1) causing, threatening, or allowing the discharge of contaminants into the environment so as to cause or tend to cause water pollution; (2) depositing contaminants upon the land so as to create a water pollution hazard; (3) causing or allowing the Cole Street Lift Station to overflow; (4) causing, threatening, or allowing the discharge of contaminants into waters of the State in violation of the NPDES permit; (5) failing to construct and operate the treatment works so as to minimize violations of applicable standards during contingencies; and (6) failing to take reasonable measures to prevent the spillage of contaminants from causing water pollution.

On November 8, 2010, simultaneously with the complaint, the People and Colchester 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 public hearing. *See* 35 Ill. Adm. Code 103.300(a). The proposed stipulation states that an estimated 300,000 gallons of sanitary wastewater was discharged from the three lift stations. Under the proposed stipulation, Colchester admits the alleged violations and agrees to pay a civil penalty of \$5,346 and complete specified improvements. The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *McDonough County Voice* on November 23, 2010. 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) (2008); 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. 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 the respondents' 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) (2008)). The People and the respondents have satisfied Section 103.302. Colchester admits the alleged violations and agrees to pay a civil penalty of \$5,346 and complete specified improvements. 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. Respondent City of Colchester must pay a civil penalty of \$5,346.00 by February 7, 2011, which is the first business day following the 30th day after the date of this order. The respondent must pay the civil penalties by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and respondent's federal employer identification number must be included on the certified check or money order.
3. The respondent must send the certified check or money order to:

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

The City of Colchester must also send a copy of the certified check or money order, and any transmittal letter to:

Christine Zeivel
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
5. The respondent must cease and desist from the violations.

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) (2008); *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, John Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 6, 2011, by a vote of 5-0.



John Therriault, Clerk
Illinois Pollution Control Board