

ILLINOIS POLLUTION CONTROL BOARD  
September 7, 2017

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) AC 17-18  
 ) (IEPA No. 63-17-AC)  
COLLEEN KELLY, ) (Administrative Citation)  
 )  
Respondent. )  
 )

OPINION AND ORDER OF THE BOARD (by B.K. Carter):

On June 16, 2017, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation (AC) alleging that Colleen Kelly had violated the Public Water Supply Operations Act (PWSO Act) and the Board's public water supplies regulations. 415 ILCS 45/23.1(b) (2016); *see* 415 ILCS 5/31.1(c) (2016); 35 Ill. Adm. Code 108.201(a).

Under the PWSO Act, community water supplies other than exempt community water supplies must have on their operational staff at least one person certified as a Responsible Operator in Charge (ROINC), and all portions of the water supply system must be under the supervision of a ROINC. 415 ILCS 45/1 (2016). The duties of a ROINC include submission according to Board rules of consumer confidence reports, monthly operating reports, and drinking water compliance monitoring results such as corrosion control reports and monitoring results. 415 ILCS 45/1.1(b)(3) (2016); 35 Ill. Adm. Code 603.103(g). Monthly operating reports must be submitted to IEPA within 30 days following the last day of the month. 35 Ill. Adm. Code 611.831.

IEPA states that Ms. Kelly is currently the ROINC for Sterling Estates MHP (IL0315850) and has been since November 21, 2015. IEPA states that Ms. Kelly is also currently ROINC for LaGrange MHP and has been since August 24, 2015. AC at 2. Both facilities are public water supplies. *Id.*; *see* 415 ILCS 45/5(a) (2016) (definition).

On June 14, 2017, IEPA conducted a records review of Sterling Heights MP and LaGrange MP. AC at 2; *see id.* at 8-9 (reviewer affidavit). IEPA alleges that Ms. Kelly violated Section 1.1(b)(3) of the PWSO Act (415 ILCS 45/1.1(b)(3) (2016)) and Section 603.103(g) and 611.831 of the Board's public water supply regulations (35 Ill. Adm. Code 603.103(g), 611.831) by failing to submit monthly operating reports for Sterling Heights MP and LaGrange MP within 30 days following the last day of the month for March and April of 2017. *Id.* at 2-3; *id.* at 7 (IEPA memorandum).

As required, IEPA served Ms. Kelly with the administrative citation within “90 days after the date of discovery of the violation.” 415 ILCS 45/23.1(b) (2016); *see also* 35 Ill. Adm. Code 108.201(b)(1) (effective July 5, 2017). IEPA’s Certificate of Service certifies that IEPA served the AC on Ms. Kelly by certified mail on June 16, 2017. AC at 10; *see* 415 ILCS 45/23.1(b) (2016). On July 5, 2017, IEPA filed a copy of electronic correspondence with Ms. Kelly. IEPA’s Notice of Filing states that the U.S. Postal Service failed to return a certified mail receipt of service of the AC. In correspondence dated July 4, 2017, Ms. Kelly stated that she “received the Illinois EPA Administrative Citation packet of information that was sent via the US Postal Service certified mail and dated June 16, 2017.”

To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondent fails to do so, the Board must find that the respondent committed the violations alleged and impose the corresponding civil penalty. *See* 415 ILCS 45/23(d) (2016). The record in this case shows that Ms. Kelly was served no later than July 4, 2017. Consequently, any petition for review was due by August 8, 2017. Ms. Kelly failed to timely file a petition. Accordingly, the Board finds that Ms. Kelly violated Section 1.1(b)(3) of the Public Water Supply Operations Act. 415 ILCS 45/1.1(b)(3) (2016); *see* 415 ILCS 45/23(d) (2016).

The civil penalty for violating Section 1.1(b)(3) is \$500 for each violation. *See* 415 ILCS 45/23.1(f) (2016). Because there are two violations of this section, the total civil penalty is \$1,000. Under Section 23.1(d)(1) of the PWSO Act, the Board attaches the administrative citation and makes it part of the order below.

This opinion constitutes the Board’s finding of fact and conclusions of law.

### **ORDER**

1. The Board finds that Colleen Kelly violated Section 1.1(b)(3) of the Public Water Supply Operations Act (415 ILCS 45/1.1(b)(3) (2016)).
2. Ms. Kelly must pay a civil penalty of \$1,000 no later than Tuesday, October 10, 2017, which because of the Columbus Day state holiday is the first business day following the 30th day after the date of this order. Ms. Kelly must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Ms. Kelly’s social security number or federal employer identification number must be included on the certified check or money order.
3. Ms. Kelly must send the certified check or money order and the remittance form to:

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

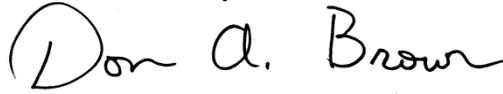
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

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) (2010); *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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

<b>Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court</b>	
<b>Parties</b>	<b>Board</b>
Illinois Environmental Protection Agency Attn: Michael S Roubitchek 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62794-9276 mike.roubitchek@illinois.gov	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601 don.brown@illinois.gov
Colleen Kelly Jocon Consulting, Inc 8507 South 82nd Court Hickory Hills, IL 60457 conwaykid3@gmail.com	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on September 7, 2017, by a vote of 5-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive style with a large, circular initial "D".

Don A. Brown, Clerk  
Illinois Pollution Control Board