ILLINOIS POLLUTION CONTROL BOARD December 20, 2001

PEOPLE OF THE STATE OF ILLINOIS,)
Complainant,))
V.) PCB 01-3) (Enforcement – Public Water Supply)
R&G CONSTRUCTION, an Illinois) (Enforcement – Fuone Water Suppry)
corporation,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by S.T. Lawton, Jr.):

On October 31, 2001, the People of the State of Illinois (People) and respondent, R&G Construction filed a joint stipulation and proposal for settlement. The Board accepts the stipulation and proposal for settlement by the two parties in this matter. The People alleged in their complaint that R&G Construction, as well as the City of Winchester and Benton & Associates, Inc., failed to supply assuredly safe water by not adequately separating water and sewer main lines during the installation of water mains in Winchester, Scott County. This activity was alleged to be in violation of Sections 15, 17(a), and 18 of the Environmental Protection Act (Act) (415 ILCS 5/15, 5/17(a), 5/18 (2000)); 35 Ill. Adm. Code 602.101, 607.104(b), and 653.119; and Section 8.6 of the Recommended Standards for Water Works.

Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000)), 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 notice appeared in the *Scott County Times* on November 7, 2001. The Board has not received any requests for hearing. Accordingly, the Board grants a waiver from the hearing requirement.

The stipulation and proposal for settlement between the People and R&G Construction sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. R&G Construction denies that it violated the Act and Board regulations as alleged in the complaint in this matter. However, R&G Construction allegedly corrected the problem by adequately separating the water and sewer lines in compliance with the Act. Stip. at 10.

R&G Construction agrees to pay a civil penalty of \$5,000 into the Environmental Protection Trust Fund within 30 days of the adoption of this order. It must continue to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's regulations.

The Board notes that this opinion and order only addresses the joint stipulation and settlement between the People and R&G construction. The Board accepted a stipulation and proposed settlement agreement between the People and the City of Winchester in its June 21, 2001 Board opinion and order, and between the People and Benton & Associates, Inc. in its July 12, 2001 Board opinion and order.

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

<u>ORDER</u>

- 1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and R&G construction, concerning the failure to supply assuredly safe water by not adequately separating water and sewer main lines during the installation of water mains in Winchester, Scott County, Illinois. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
- 2. R&G construction must pay \$5,000 within 30 days of this order. It must make the payment by certified check or money order, payable to the Treasurer of the State of Illinois, and designated to the Environmental Protection Trust Fund. The case number, case name, and the Federal Employer Identification Number of R&G construction shall also be included on each 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 or money order must be simultaneously submitted to:

Sally A. Carter Assistant Attorney General Illinois Attorney General's Office Environmental Bureau 500 South Second Street Springfield, Illinois 62706

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 (2000)), 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. Respondents shall cease and desist all future violations of any federal, State, or local statutes and regulations.

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) (2000); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 20, 2001, by a vote of 7-0.

Dorothy Th. Jun

Dorothy M. Gunn, Clerk Illinois Pollution Control Board