## ILLINOIS POLLUTION CONTROL BOARD July 11, 2002

PEOPLE OF THE STATE OF ILLINOIS,	)
Complainant,	)
V.	) ) PCB 02-36
	) (Enforcement – Public Water Supply)
CITY OF GOLCONDA, BROWN,	)
<b>ROFFMAN &amp; ROBERTS, INC. and FORBY</b>	Y)
EXCAVATING, INC.,	)
	)
Respondents.	)

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On September 18, 2001, the Office of the Attorney General, on behalf of the People of the State of Illinois (People) filed a three-count complaint against respondents City of Golconda; Brown, Roffman & Roberts, Inc.; and Forby Excavating, Inc. *See* 415 ILCS 5/31(c)(1) (2000); 35 Ill. Adm. Code 103.204. The People allege that respondents failed to maintain the required physical separation between water mains and sewer mains at three places in Golconda, Pope County. These activities were in alleged violation of Section 18 of the Environmental Protection Act (Act) (415 ILCS 5/18 (2000)), Sections 601.101 and 607.104(b) of the Board's regulations (35 Ill. Adm. Code 601.101 and 607.104(b)), and Section 653.119 of the Illinois Environmental Protection Agency's regulations (35 Ill. Adm. Code 653.119).

On May 28, 2002, the People and respondents 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) (2000)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000)). See 35 III. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Herald Enterprise* on May 29, 2002. 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) (2000); 35 III. 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 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) (2000)). The People and respondents have satisfied Section 103.302. Respondents admit the water main at issue was initially installed in violation of Section 18 of the Act. Respondents Brown, Roffman & Roberts, and Forby Excavating, Inc. agree to pay a penalty of \$1,500 each and respondent

City of Golconda agrees to pay a civil penalty of \$800. 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. Respondents, Brown, Roffman & Roberts, and Forby Excavating, Inc., must pay a civil penalty of \$1,500 no later than August 10, 2002, which is the 30th day after the date of this order. Respondents, Brown, Roffman & Roberts, and Forby Excavating, Inc. must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and respondents' respective social security number or federal employer identification number must be included on the certified check or money order.
- 3. Respondent, City of Golconda, must pay a civil penalty of \$800 no later than August 10, 2002, which is the 30th day after the date of this order. Respondent City of Golconda must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and City of Golconda's social security number or federal employer identification number must be included on the certified check or money order.
- 4. Respondents 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

- 5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
- 5. Respondents, City of Golconda, Brown, Roffman & Roberts, and Forby Excavating, Inc., must cease and desist from the alleged 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) (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 July 11, 2002, by a vote of 5-0.

Dorothy Mr. Hund

Dorothy M. Gunn, Clerk Illinois Pollution Control Board