## ILLINOIS POLLUTION CONTROL BOARD August 8, 2002

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
V.	)	PCB 03-4
	)	(Enforcement – Water)
OAK TERRACE SANITARY SYSTEM,	)	
INC., an Illinois not-for-profit corporation,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

On July 9, 2002, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Oak Terrace Sanitary System, Inc. (Oak Terrace). *See* 415 ILCS 5/31(c)(1) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002; 35 Ill. Adm. Code 103.204. The People allege that Oak Terrace violated Sections 12(b) and (c) of the Illinois Environmental Protection Act (Act) (415 ILCS 5/12(b), (c) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002 ;35 Ill. Adm. Code 309.202(a)). The People further allege that Oak Terrace violated these provisions by constructing a sewer connection without a permit issued by the Agency. The complaint concerns Oak Terrace's development of the Oak Terrace-Beyers Lake Estates subdivision in Pana, Christian County.

Additionally on July 9, 2002, the People and Oak Terrace 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) *amended* by P.A. 92-0-574, eff. June 26, 2002). 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 *Pana News-Palladium* on July 11, 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) *amended by* P.A. 92-0574, eff. June 26, 2002; 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 Oak Terrace's 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 Oak Terrace have satisfied Section 103.302. Oak Terrace admits the alleged violations and agrees to pay a civil penalty of \$4,000. 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. Oak Terrace Sanitary System, Inc. (Oak Terrace) must pay a civil penalty of \$4,000 no later than September 8, 2002. Oak Terrace must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Oak Terrace's social security number or federal employer identification number must be included on the certified check or money order.
- 3. Oak Terrace 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

- 4. 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. Oak Terrace must cease and desist from the alleged violations.

IT IS SO ORDERED.

Board Member W.A. Marovitz dissented.

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 August 8, 2002, by a vote of 6-1.

Dorothy The Gun

Dorothy M. Gunn, Clerk Illinois Pollution Control Board