

ILLINOIS POLLUTION CONTROL BOARD

July 22, 2004

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 04-142
)	(Enforcement - Public Water Supply)
VILLAGE OF POPLAR GROVE, an Illinois)	
municipal corporation, and R.H.)	
BATTERMAN & COMPANY, INC., a)	
Wisconsin corporation,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

On February 18, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against the Village of Poplar Grove and R.H. Batterman & Company, Inc. (respondents). See 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The People allege that respondents violated Section 18(a)(2) and (a)(3) of the Environmental Protection Act (Act) (415 ILCS 5/18(a)(2) and (a)(3) (2002)) and 35 Ill. Adm. Code 602.101. The People further allege that the respondents violated these provisions by beginning construction of improvements to a public water supply without a permit issued by the Illinois Environmental Protection Agency. The complaint concerns public water supply facilities located at the Village of Poplar Grove, Boone County.

On June 14, 2004, the Parties 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) (2002)). These filings are authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)). See 35 Ill. 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 *Belvidere Republican* on June 22, 2004. 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) (2002); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulation and proposed settlement. 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) (2002)).

The People and the respondents have satisfied Section 103.302. Under the proposed stipulation, the Village of Poplar Grove admits the alleged violations and agrees to pay a civil penalty of \$1,000. Under the proposed stipulation, R.H. Batterman & Company, Inc. admits the

alleged violations and agrees to pay a civil penalty of \$3,000. The Board accepts the stipulations and proposed settlements.

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

ORDER

1. The Board accepts and incorporates by reference the stipulations and proposed settlements.
2. The Village of Poplar Grove must pay a civil penalty of \$1,000 no later than August 23, 2004. The Village of Poplar Grove must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and The Village of Poplar Grove's social security number or federal employer identification number must be included on the certified check or money order.
3. R.H. Batterman & Company, Inc. must pay a civil penalty of \$3,000 no later than August 23, 2004. R.H. Batterman & Company, Inc. must pay the civil penalty by certified check or money order, payable to the Environmental Protection Fund. The case number, case name, and R.H. Batterman & Company, Inc.'s social security number or federal employer identification number must be included on the certified check or money order.
3. Respondents must send the certified checks or money orders to:

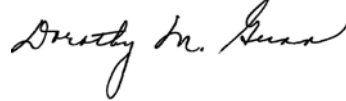
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. Respondents 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) (2002); *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 22, 2004, by a vote of 5-0.

A handwritten signature in cursive script, appearing to read "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board