

ILLINOIS POLLUTION CONTROL BOARD
April 21, 2005

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| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 05-96 |
| |) | (Enforcement - Public Water Supply) |
| VILLAGE OF NORTH CITY, an Illinois |) | |
| municipal corporation, |) | |
| |) | |
| Respondent. |) | |

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

On November 17, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Village of North City; Lawrence A Lipe & Associates, Inc.; Altman-Charter Company; and Furlong Excavating, Inc (respondents). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The complaint concerns the construction or installation of a sewage lift station and water main in the Village of North City, Franklin County. The Village of North City now seeks to settle.¹ For the reasons below, the Board accepts the stipulation and proposed settlement as to the respondent, the Village of North City.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2002)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2002); 35 Ill. Adm. Code 103. In this case, the People alleged that the respondents violated Sections 12(c), 15(a), and 18(a)(2) of the Act (415 ILCS 5/12(c), 15(a), and 18(a)(2) (2002)) and 35 Ill. Adm. Code 309.202(a), 602.101(b), and 653.119(b)(1)(A) by (1) construction or installation of a sewage lift station in the village of North City without a permit; (2) failing to submit complete plans and specifications for a 1999 water main permit; and (3) construction or installation of a water main without complying without maintaining at least 10 feet horizontal separation between sewer and water lines.

On March 10, 2005, the People and the Village of North City 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)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published

¹ By orders of March 3, 2005 and March 17, 2005, the Board accepted settlements as to all respondents except the Village of North City.

newspaper notice in the *Benton Evening News* on March 22, 2005. 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 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 the Village of North City'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) (2002)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

The Village of North City admits the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2002), *as amended by* P.A. 93-575, (eff. Jan. 1, 2004), which may mitigate or aggravate the civil penalty amount. The Village of North City agrees to pay a civil penalty of \$500. The Village of North City further agrees to perform a supplemental environmental project by payment of a monetary donation of \$500 to the Benton School District Greening Program. The People and the Village of North City both agree that no economic benefit accrued to the Village of North City by the non-compliance.

The People and the Village of North City have satisfied Section 103.302. 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. The Village of North City must pay a civil penalty of \$500 no later than May 23, 2005, which is the first business day after the 30th day after the date of this order. The Village of North City must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Environmental Protection Trust Fund. The case number, case name, and The Village of North City's social security number or federal employer identification number must be included on the certified check or money order.
3. The Village of North City must send the certified check, money order, or electronic funds transfer to the following person at the indicated address:

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

4. The Village of North City must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following person at the indicated address:

Ms. Kristen Laughridge
Environmental Bureau
Attorney General's Office
500 South Second Street
Springfield, Illinois 62702

Ms. Joey Logan-Wilkey
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

5. The Village of North City must perform the supplemental environmental program and pay a monetary donation of \$500 to the Benton School District Greening Program no later than May 23, 2005, which is the first business day after the 30th day after the date of this order. The case number, case name, and the Village of North City's social security number or federal employer identification number must be included on the certified check or money order.
6. The Village of North City must send the certified check or electronic funds transfer to:

Benton Consolidated High School
Attn: Kathy Simmons
511 East Main Street
Benton, Illinois 62812

7. The Village of North City must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following persons at the indicated address:

Ms. Kristen Laughridge
Environmental Bureau
Attorney General's Office
500 South Second Street
Springfield, Illinois 62702

Ms. Joey Logan-Wilkey
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East

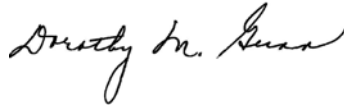
P.O. Box 19276
Springfield, Illinois 62794-9276

8. 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)).
9. The Village of North City 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 April 21, 2005, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board