

ILLINOIS POLLUTION CONTROL BOARD
April 5, 2001

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 00-176
) (Enforcement - Water)
CITY OF AUBURN, an Illinois municipal)
corporation, BENTON & ASSOCIATES)
ENGINEERING, INC., a Delaware)
corporation, and PETERSBURG PLUMBING)
AND HEATING, a Delaware corporation,)
)
Respondents.)

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

On April 18, 2000, the People of the State of Illinois (complainant) filed a five-count complaint against respondents the City of Auburn (Auburn), Benton & Associates Engineering, Inc. (BAE), and Petersburg Plumbing and Heating (PPH). The complaint alleges respondents caused water pollution, failed to protect public water supplies, failed to provide safe water, and failed to adequately separate water and sewer mains. Complainant alleged that respondents violated Sections 12(b) and 18 of the Environmental Protection Act (Act) (415 ILCS 5/12(b) and 18 (1998)), the Board's regulations at 35 Ill. Adm. Code 370.350, 601.101, 607.104(b), and an Illinois Environmental Protection Agency regulation at 35 Ill. Adm. Code 653.119.

On March 5, 2001, complainant and Auburn filed a stipulation and proposal for settlement, accompanied by a motion requesting relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (1998)). Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (1998)), 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 Auburn Citizen* on March 8, 2001. The Board did not receive any requests for hearing. Accordingly, the Board grants a waiver from the hearing requirement.

The stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. Auburn neither admits nor denies the violations alleged by the People, but agrees to pay a civil penalty of \$3,000. The stipulation and proposal for settlement does not include BAE or PPH.

The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. Auburn must continue to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's regulations.

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

ORDER

1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and Auburn. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. Auburn must pay a civil penalty of \$3,000. Payment must be made within 30 days of the date of this order, that is, on or before May 5, 2001. Such payment must be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund. The case number, case name, and Auburn's Federal Employer Identification number 37-6002003 must also be included on the certified check or money order and clearly indicate that payment is directed to the Environmental Protection Trust Fund.
3. The check or money order must 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 shall be simultaneously submitted to:

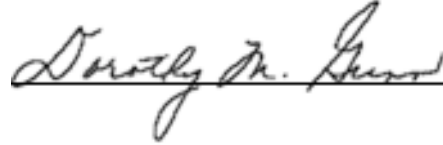
Office of the Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706

4. Any such penalty not paid within the time prescribed incurs interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003 (1998)), as now or hereafter amended, from the date payment is due until the date payment is received. Interest does not accrue during the pendency of an appeal during which payment of the penalty has been stayed.
5. Auburn must cease and desist future alleged violations of any federal, State, or local statutes and regulations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.520, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 5th day of April 2001 by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board