ILLINOIS POLLUTION CONTROL BOARD January 26, 2006

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 07-26
)	(Enforcement -Water)
PALOS TOWNSHIP, a political subdivision of Cook County, Illinois,)	

Respondent.

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On October 23, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one -count complaint against Palos Township, a political subdivision of Cook County. *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns municipal separate storm sewers (MS4s) operated by Palos Township to serve the township's residents, includes those in Palos Hills, Hickory Hills, Palos Heights, and Palos Park, Cook County.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 et seq. (2004)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. See 415 ILCS 5/31 (2004); 35 Ill. Adm. Code 103. In this case, the People allege that Palos Township violated Section 12(a), (d), and (f) of the Act (415 ILCS 5/12(a), (d), and (f) (2004)) and 35 Ill. Adm. Code 302.203, 304.106, 309.102(a), 501.403(a), 501.404(c)(3), 580.105, and 580.300.

The People allege that Palos Township violated Section 21(f) of the Act (415 ILCS 5/12 (f) and the Board's water regulations at 35 Ill. Adm. Code 309.102(a). The People further allege that the City violated these provisions from March 10, 2003 through at least June 2006 by causing or allowing the operation of the MS4s without applying for and obtaining a permit under the National Pollutant Discharge and Elimination System (NPDES), or demonstrating that NPDES coverage is waived. The People ask the Board to order Palos Township to cease and desist from further violation and to pay a civil penalty in accordance with statute.

On October 23, 2006, along with the complaint, the People and Palos Township 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) (2004)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)). See 35 Ill. Adm. Code 103.300(a), 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 newspaper notice in the *Daily Southtown* on November 3, 2006; any timely hearing request was due to be filed November 24, 2006. 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) (2004); 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 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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount.

Under the proposed stipulation, Palos Township admits the alleged violations and agrees to pay a civil penalty of \$3,800.

The People and Palos Township have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement. The Board has outlined the gist, but not the details, of the stipulation's contents in the order below. In summary, the Board assesses a civil penalty of \$3,800, and orders Palos Township to comply with all terms and conditions of the stipulation.

This docket is now closed. 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. In summary, the Board assesses a civil penalty of \$3,800.
- 2. Palos Township must pay a civil penalty of \$3,800 no later than February 26, 2007, which is the 30th business day after the date of this order. Palos Township must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Illinois Environmental Protection Agency, designated for deposit into the Environmental Protection Trust Fund. The case number, case name, and Palos Township's federal employer identification number must be included on the certified check, money order, or electronic funds transfer statement.
- 3. Palos Township must send the certified check, money order, or electronic funds transfer to the following address:

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

4. Palos Township 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:

Vanessa A. Vail Assistant Attorney General Environmental Bureau 188 W. Randolph Street, 20th Floor Chicago, Illinois 60601

- 5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
- 6. Palos Township must cease and desist from the admitted 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) (2004); 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 January 26, 2007, by a vote of 4-0.

Dorothy M. Gunn, Clerk

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