

ILLINOIS POLLUTION CONTROL BOARD
 March 1, 2007

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 07-3
)	(Enforcement - Water)
EAST LYNN COMMUNITY WATER)	
SYSTEM, INC., an Illinois corporation,)	
)	
Respondent.)	

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

On July 6, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against East Lynn Community Water System, Inc. (East Lynn). The complaint concerns East Lynn’s iron removal plant located north of Walnut Street and west of Main Street in the town of East Lynn, Vermilion County. The parties now seek to settle. For the reasons below, the Board accepts the parties’ stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2004)), 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 (2004); 35 Ill. Adm. Code 103. In this case, the People allege that East Lynn violated Section 18(a)(2) of the Act, Section 1 of the Public Water Supply Operations Act, and Sections 603.102, 603.103, and 603.105(b) of the Board’s Public Water Supply regulations. *See* 415 ILCS 5/18(a)(2) (2004); 415 ILCS 45/1 (2004); 35 Ill. Adm. Code 603.102, 603.103, 603.105(b). The People further allege that East Lynn violated these provisions by failing to have a responsible person (*i.e.*, a Class B or A certified operator) in charge of its public water supply and failing to notify the Illinois Environmental Protection Agency of a certified operator designation.

On January 25, 2007, the People and East Lynn 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)), 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. The newspaper notice was published in the *Commercial-News* on January 31, 2007. 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. *See* 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 East Lynn'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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The People and East Lynn have satisfied Section 103.302. East Lynn does not admit 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. East Lynn agrees to pay a civil penalty of \$200. The parties stipulate that "no economic benefit was received as a result of the noncompliance." Stipulation at 8. 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. East Lynn must pay a civil penalty of \$200 no later than April 2, 2007, which is the first business day following the 30th day after the date of this order. East Lynn must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund. The case number, case name, and East Lynn's federal employer identification number must be included on any certified check or money order.
3. East Lynn must submit payment of the civil penalty to:

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

East Lynn must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to:

Michael D. Mankowski
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62702

4. 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

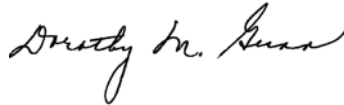
set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).

5. East Lynn 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) (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 March 1, 2007, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board