ILLINOIS POLLUTION CONTROL BOARD November 15, 2007

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
V.)	PCB 08-28
)	(Enforcement - Water)
CITY OF JERSEYVILLE, an Illinois)	
municipal corporation,)	
)	
Respondent.)	

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

On October 2, 2007, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against the City of Jerseyville (Jerseyville). The complaint concerns Jerseyville's water main replacement project construction site, located at the corner of Union Forest Road and Pump Station Road, approximately three miles northwest of Otterville, Jersey County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), 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 (2006); 35 Ill. Adm. Code 103. In this case, the People allege that Jerseyville violated Sections 12(a) and (f) of the Act (415 ILCS 5/12(a), (f) (2006)) and Sections 309.102(a), 309.103, and 309.243 of the Board's water pollution regulations (35 Ill. Adm. Code 309.102(a), 309.103, 309.243) by causing or allowing the discharge of silt from the construction site into waters of the State so as to cause or tend to cause water pollution and by causing or allowing or threatening the discharge of contaminants into the waters of the State without a National Pollutant Discharge Elimination System (NPDES) permit.

On October 2, 2007, the People and Jerseyville 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) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)), 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 *Jersey County Journal* on October 17, 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) (2006); 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 Jerseyville'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) (2006)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Jerseyville admits the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2006)), which may mitigate or aggravate the civil penalty amount. Jerseyville agrees to pay a civil penalty of \$1,080. The People and Jerseyville 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. Jerseyville must pay a civil penalty of \$1,080 no later than December 17, 2007, which is the first business day following the 30th day after the date of this order. Jerseyville must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund. The case name, case number, and Jerseyville's Federal Employer Identification Number must appear on the certified check or money order.
- 3. Jerseyville 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

Jerseyville must send a copy of the certified check or money order 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 Act (415 ILCS 5/42(g) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).

5. Jerseyville must cease and desist from future violations of the Act and Board regulations that were the subject matter of the complaint.

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) (2006); *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, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on November 15, 2007, by a vote of 4-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board