ILLINOIS POLLUTION CONTROL BOARD June 5, 2008

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
V.)	PCB 07-134
VILLAGE OF ROCKTON, an Illinois)	(Enforcement - Water)
municipal corporation,)	
Respondent.)	

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

On June 8, 2007, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against the Village of Rockton (Rockton). The complaint concerns Rockton's wastewater treatment plant, including the Hawick lift station, located on the 200 block of Hawick Street, Rockton, Winnebago 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 Rockton violated Sections 12(a) and 12(f) of the Act (415 ILCS 5/12(a), 12(f) (2006)) and Sections 306.102, 306.304, and 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 306.102, 306.304, 309.102(a)). The People allege that Rockton violated these provisions by (1) discharging untreated sewage into the Rock River, causing or allowing water pollution; (2) discharging untreated sewage from a storm sewer outfall without a National Pollutant Discharge Elimination System (NPDES) permit authorizing the discharge; (3) failing to provide a duplicate power source and failing to operate the Hawick lift station so as to prevent a discharge of untreated sewage; and (4) allowing the overflow of the sanitary sewer at the Hawick lift station out into a bypass pipe, discharging untreated sewage to the Rock River.

On April 11, 2008, the People and Rockton 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 *Rockton Herald* on April 24, 2008. 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 III. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of respondent'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. Rockton does not affirmatively admit 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. Rockton agrees to pay a civil penalty of \$7,514.00. The People and Rockton 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. Rockton must pay a civil penalty of \$7,514.00 no later than July 7, 2008, which is first business day following the 30th day after the date of this order. Rockton 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 Rockton's Federal Employer Identification Number must appear on the face of the certified check or the money order.
- 3. Rockton 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

Rockton must send a copy of the certified check or money order and any transmittal letter to:

Stephen J. Sylvester
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection 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. Rockton must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject 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 June 5, 2008, by a vote of 4-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board

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