ILLINOIS POLLUTION CONTROL BOARD June 19, 2008

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
V.)	F
)	(
VILLAGE OF SKOKIE, an Illinois municipal)	
corporation,)	
)	
Respondent.)	

PCB 08-88 (Enforcement – Public Water Supply)

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

On May 12, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against the Village of Skokie (Skokie). The complaint concerns the construction of water mains at two projects, one located at Old Orchard Road and Woods Drive (Optima Project), the other located at 9408 Skokie Boulevard (Siena Project). Both the Optima Project and the Siena Project are located in Skokie, Cook 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 the Skokie violated Sections 15(a) and 18(a) of the Act (415 ILCS 5/15(a), 18(a) (2006)) and Sections 602.101(a) and 652.101(a) of the public water supply regulations (35 Ill. Adm. Code 602.101(a), 652.101(a)). The People allege that Skokie violated these provisions by (1) failing to submit construction permit applications with sufficient details or supplemental data as requested by the Illinois Environmental Protection Agency (Agency), and by failing to obtain a permit from the Agency for the construction of water mains at the Optima Project prior to beginning construction; and (2) by failing to submit construction permit applications with sufficient details or supplemental data as requested by the Agency, and by failing to obtain a permit from the Agency for the construction of water mains at the Optima Project prior to beginning construction; and (2) by failing to submit construction permit applications with sufficient details or supplemental data as requested by the Agency, and by failing to obtain a permit from the Agency for the construction of water mains at the Siena Project prior to beginning construction.

On May 12, 2008, the People and Skokie also 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 by the Pioneer Press on May 15, 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 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 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. Skokie neither admits nor denies 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. Skokie agrees to pay a civil penalty of \$25,000. The People and Skokie 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.

<u>ORDER</u>

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. Skokie must pay a civil penalty of \$25,000 no later than July 21, 2008, which is first business day following the 30th day after the date of this order. Skokie 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 Skokie's Federal Employer Identification Number must appear on the face of the certified check or the money order.
- 3. Skokie 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

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

Environmental Bureau Illinois Attorney General's Office 500 South Second Street Springfield, Illinois 62706 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)).

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 19, 2008, by a vote of 4-0.

In T. J

John Therriault, Assistant Clerk Illinois Pollution Control Board