# ILLINOIS POLLUTION CONTROL BOARD December 3, 2009

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
V.	)	PCB 07-47
	)	(Enforcement - Water)
CITY OF PEKIN, an Illinois municipal	)	
corporation,	)	
	)	
Respondent.	)	

## ORDER OF THE BOARD (by C.K. Zalewski):

On December 13, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against the City of Pekin (Pekin or respondent). The complaint concerns Pekin's waste water treatment plant (WWTP) at 606 South Front Street, in Pekin, Tazewell 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 (2008)), <sup>1</sup> 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 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that Pekin violated Sections 12(a) and 12(f) of the Act, 415 ILCS 5/12(a), 12(f) (2008), and Sections 304.141(a), 305.102(b), 306.102, 309.102(a) and 312.101 of the Board's Water Pollution Regulations, 35 Ill. Adm. Code 304.141(a), 306.102, 309.102(a), 312.101.

According to the complaint, respondents violated these provisions by: (1) causing or allowing the discharge of contaminants into waters of the State in violation of the terms or conditions of its NPDES permit, (2) discharging said contaminates in violation of the regulations or standards adopted by the Board, (3) discharging the contaminants so as to cause water pollution, (4) failing to ensure that all treatment works and associated facilities were constructed and operated as to minimize violations of applicable standards during such contingencies as flooding, etc., (5) failing to comply with the monitoring, sampling, recording and reporting requirements set forth in Pekin's NPDES permit, (6) allowing bypasses and overflows of untreated wastewater to occur, and (7) failing to have a certified Class I operator to supervise the operation of the WWTP.

On October 22, 2009, the People and Pekin filed a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act

<sup>&</sup>lt;sup>1</sup> All citations to the Act will be to the 2008 compiled statutes because the provisions at issue have not been substantively amended in the 2008 compiled statutes.

(415 ILCS 5/31(c)(1) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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 *Pekin Daily Times* on October 29, 2009. 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) (2008); 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) (2008)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Respondent Pekin admits the alleged violations. The stipulation specifies many long and short term compliance actions which the City agrees to complete. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2008)), which may mitigate or aggravate the civil penalty amount. Respondent agrees to pay a civil penalty of \$14,483.

The People and respondent 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. The City of Pekin must pay a civil penalty of \$14,483.00 no later than January 4, 2010, which is the first business day following the 30th day after the date of this order. Pekin must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name, case number, and Pekin's federal tax identification number must appear on the face of the certified check or money order.
- 3. Pekin 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 Pekin 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) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
- 5. Pekin 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) (2008); 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.

#### IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 3, 2009, by a vote of 5-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board

John T. Sherrian