

ILLINOIS POLLUTION CONTROL BOARD
January 21, 2010

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 09-22
)	(Enforcement - Public Water Supply)
WILLIAM WARREN,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD: (by G.L. Blankenship):

On October 7, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against William Warren (Warren). *See* 415 ILCS 5/31(c)(1) (2008); 35 Ill. Adm. Code 103.204. The complaint concerns a water main extension allegedly installed onto the Carlyle North water system, along Bull Frog Lane near the intersection with Walcott Road in Carlyle, Clinton 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 (2008¹)), 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 Warren violated Sections 15 and 18 of the Act (415 ILCS 5/15, 18 (2008)) and Sections 602.101 and 652.101 of the public water supply regulations (35 Ill. Adm. Code 602.101, 652.101). The People further allege that Warren violated these provisions by (1) causing or allowing the change of or addition to an existing public water supply without first obtaining a construction permit issued by the Illinois Environmental Protection Agency, and (2) causing or allowing an alteration, change, or addition to an existing community water supply in a manner that may affect the sanitary or mineral quality of the water or the adequacy of the supply of the water where a construction permit had not previously been obtained by the official custodian of the community water supply.

On December 11, 2009, the People and Warren 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) (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,

¹ All citations to the Act will be to the 2008 compiled statutes, unless the provision at issue has been substantively amended in the 2008 compiled statutes.

proposed settlement, and request for relief. The newspaper notice was published in the *Carlyle Union Banner* on December 23, 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) (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) (2008)), which bears on the reasonableness of the circumstances surrounding the alleged violations. 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. Warren does not admit the alleged violations, but agrees to pay a civil penalty of \$5,000.00. 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 filed with the Board December 11, 2009.
2. Warren must pay a civil penalty of \$5,000.00 for the alleged violations no later than February 22, 2010, which is the first business day following the 30th day after the date of this order. Respondent Warren 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 respondent Warren's Federal Tax Identification Number must appear on the face of the certified check or the money order.
3. Respondent Warren 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

Respondent Warren 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 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) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
5. Respondent Warren 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.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 21, 2010, by a vote of 4-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board