

ILLINOIS POLLUTION CONTROL BOARD

August 19, 2010

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 09-91
)	(Enforcement - Water)
KEN RAWSON,)	
)	
Respondent.)	

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

On April 17, 2009, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Ken Rawson. The complaint concerns a sanitary sewer and potable water lines to service future residential subdivisions in the City of Crystal Lake, McHenry 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)), 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 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that Rawson violated Sections 12(a), 12(d), and 12(f) of the Act (415 ILCS 5/12(a), 12(d), 12(f) (2008)) and Section 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 309.102(a)). The People further allege that Rawson violated these provisions by causing, threatening, or allowing the discharge of a contaminant into the environment so as to cause or tend to cause water pollution; by depositing contaminants onto the land so as to create a water pollution hazard; and by allowing storm water discharges in violation the general National Pollutant Discharge Elimination System (NPDES) storm water permit for construction site activities.

On June 30, 2010, the People and Rawson 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, proposed settlement, and request for relief. The newspaper notice was published in the *Northwest Herald* on July 16, 2010. 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 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 Rawson'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. Rawson does not affirmatively admit the alleged violations but agrees to pay a civil penalty of \$12,000. 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. The People and Rawson 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. Ken Rawson must pay a civil penalty of \$12,000 no later than September 20, 2010, which is the first business day following the 30th day after the date of this order. Rawson 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 Rawson's federal tax identification number must appear on the face of the certified check or money order.
3. Rawson 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

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

Vanessa A. Vail
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, 18th Floor
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) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).

5. Rawson must cease and desist from future violations of the 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) (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 August 19, 2010, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board