## ILLINOIS POLLUTION CONTROL BOARD March 3, 2011

PEOPLE OF THE STATE OF ILLINOIS,	)	
Compleinent	)	
Complainant,	)	
v.	)	PCB 11-3
	)	(Enforcement - Water)
ALDEN MANAGEMENT SERVICES, INC.,	)	
an Illinois corporation, and ALDEN LONG	)	
GROVE REHABILITATION AND HEALTH	( )	
CARE CENTER, INC., an Illinois corporation	ı, )	
	)	
Respondents.	)	

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

On July 19, 2010, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed an eight-count complaint against Alden Management Services, Inc. (Alden Management) and Alden Long Grove Rehabilitation and Health Care Center, Inc. (Alden Long Grove) (collectively, respondents). The complaint alleges that Alden Management operates several rehabilitation and nursing facilities, including the Alden Long Grove rehabilitation center. The complaint concerns the wastewater treatment plant (WWTP) located at the Alden Long Grove rehabilitation center on Old Hicks Road, east of Illinois Route 53 and just west of Illinois Route 83 in Long Grove, Lake County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the 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 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 respondents violated Sections 12(a), 12(d), and 12(f) of the Act (415 ILCS 5/12(a), 12(d), 12(f) (2008)), Sections 302.203, 304.105, 304.106, 306.102(a), 306.304, 309.102(a), and 312.101 of the Board's water pollution regulations (35 Ill. Adm. Code 302.203, 304.105, 304.106, 306.102(a), 306.304, 309.102(a), 312.101), and various special conditions of National Pollutant Discharge Elimination System (NPDES) permit No. IL0051934. The People further allege that respondents violated these provisions by (1) causing or allowing discharges consisting of sanitary sewer overflows from the WWTP into the wetlands adjacent to the WWTP and into an unnamed tributary to Buffalo Creek, thereby causing, threatening, or allowing the discharge of contaminants into the environment so as to cause or tend to cause water pollution; (2) discharging an effluent that caused violations of water quality standards; (3) causing contaminants contained in sanitary sewer overflows from the WWTP to be deposited on the land in areas immediately adjacent to surface waters of the State, thereby depositing contaminants upon the land in such place and manner so as to create a water pollution hazard; (4) causing or allowing overflows from the WWTP's sanitary sewers in violation of Board regulations; (5) failing to maintain and operate the WWTP in a manner so as to minimize

the violations of applicable standards; (6) allowing the WWTP to be operated without a properly certified operator; (7) failing to have a certified operator and causing or allowing offensive discharges and offensive conditions in waters in violation of Board regulations; and (8) discharging sanitary sewer overflows from the WWTP into the wetlands adjacent to the WWTP and into the unnamed tributary to Buffalo Creek without an NPDES permit covering those discharges.

On December 30, 2010, the People and respondents 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 *Lake County News-Sun* on February 2, 2011. 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. 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 respondents' 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. Respondents do not affirmatively admit 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. Respondents agree to pay a civil penalty of \$40,000. The People and respondents 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. Respondents must pay a civil penalty of \$40,000 by April 4, 2011, which is the first business day following the 30th day after the date of this order. Respondents 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 number, case name, and respondents' respective federal employer identification numbers must be included on the certified check or money order.
- 3. Respondents 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

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

Environmental Bureau Illinois Attorney General's Office 69 W. Washington Street 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)).

## 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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 3, 2011, by a vote of 5-0.

John Therriault, Clerk

Illinois Pollution Control Board