## ILLINOIS POLLUTION CONTROL BOARD April 7, 2011

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	)	
Complamant,	)	
V.	)	PCB 10-102
	)	(Enforcement - Water)
CITY OF CHARLESTON, an Illinois	)	
municipal corporation,	)	
	)	
Respondent.	)	

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

On June 9, 2010, 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 Charleston (Charleston). The complaint concerns Charleston's wastewater treatment plant (WWTP) located at 750 West Madison Avenue in Charleston, Coles County. 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, count I of the People's complaint alleges that Charleston violated Sections 12(a) and 12(d) of the Act (415 ILCS 5/12(a), (d) (2008)) and Sections 302.203, 304.106, 306.304, and 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 302.203, 304.106, 306.304, 309.102(a)) by (1) causing or allowing the discharge of contaminants and wastewater into the environment so as to cause water pollution resulting in a fish kill, (2) depositing contaminants upon the land in such a manner and place as to create a water pollution hazard, (3) discharging contaminants into waters of the State containing sludge or bottom deposits, floating debris, or color or turbidity of other than natural origin, (4) discharging untreated wastewater containing settleable solids, floating debris, or sludge solids, and (5) causing or allowing sewer overflows. Count II of the complaint alleges that Charleston violated Sections 306.102(a) and 306.102(b) (35 Ill. Adm. Code 306.102(a), (b)) by (1) failing to construct and operate its WWTP so as to minimize violations of applicable standards during flooding, adverse weather, equipment failure, or maintenance and (2) failing to take all reasonable measures to prevent the spillage of contaminants from causing water pollution. In count III, the People allege that Charleston violated Section 12(f) of the Act (415 ILCS 5/12(f) (2008)) and Sections 304.141(a) and 309.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 304.141(a), 309.102(a)) by (1) discharging contaminants into waters of the State in violation of its National Pollutant Discharge Elimination System (NPDES) permit and (2) discharging contaminants in its effluent in excess of the standards and limitations set forth in its NPDES permit.

On February 17, 2011, the People and Charleston 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 *Journal Gazette & Times-Courier* on March 5, 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 Charleston'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. Charleston admits 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. Charleston agrees to pay a civil penalty of \$23,800. The People and Charleston 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. Charlestown must pay a civil penalty of \$23,800 by May 9, 2011, which is the first business day following the 30th day after the date of this order. Charlestown 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 Charlestown's federal employer identification number must be included on the certified check or money order.
- 3. Charlestown 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 Charlestown 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, Suite 1800 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. Charlestown must cease and desist from future violations of the Environmental Protection 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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on April 7, 2011, by a vote of 5-0.

John Therriault, Clerk

Illinois Pollution Control Board