ILLINOIS POLLUTION CONTROL BOARD April 7, 2011

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,))	
v.)) PCB 11-52) (Enforcement - Wa	ator)
WINDSOR LAKE PARTNERSHIPS, an)	1101)
Illinois limited partnership, JAMES DURKEE, an individual, and SANDY SOKOLICK, an)	
individual,)	
Respondents.)	

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

On February 23, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a six-count complaint against Windsor Lake Partnerships, James Durkee, and Sandy Sokolick (collectively, respondents). The complaint concerns respondents' lift station at 1752 Windsor Road in Loves Park, Winnebago County. For the reasons below, the Board accepts the stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), 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 the following provisions in the manner described: (1) Section 12(a) of the Act (415 ILCS 5/12(a) (2010)) by discharging untreated sewage into Windsor Lake, a water of the State, causing or allowing water pollution; (2) Section 12(d) of the Act (415 ILCS 5/12(d) (2010)) by creating a water pollution hazard when the overflow of untreated wastewater deposited contaminants on the land; (3) Section 12(f) of the Act (415 ILCS 5/12(f) (2010)) by discharging untreated sewage into Windsor Lake without a National Pollutant Discharge Elimination System (NPDES) permit; (4) Section 304.106 of the Board's water pollution regulations (35 Ill. Adm. Code 304.106) and thereby Section 12(a) of the Act by causing offensive discharges through discharging untreated sewage, an effluent, into Windsor Lake; (5) Section 306.102(a) of the Board's water pollution regulations (35 Ill. Adm. Code 306.102(a)) and thereby Section 12(a) of the Act by failing to maintain the lift station's backup systems in operable condition to minimize violations in the event of a power or equipment failure; and (6) Section 306.304 of the Board's water pollution regulations (35 Ill. Adm. Code 306.304) and thereby Section 12(a) of the Act by allowing the sanitary sewer overflow from the lift station.

On February 23, 2011, simultaneously with the People's complaint, 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) (2010)). This filing

is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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 *Rockford Register Star* 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) (2010); 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 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 \$3,000. 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.

<u>ORDER</u>

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. Respondents must pay a civil penalty of \$3,000 May 9, 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' 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, 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. Respondents 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.

In T. Therian

John Therriault, Clerk Illinois Pollution Control Board