

ILLINOIS POLLUTION CONTROL BOARD

June 16, 2011

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 07-139
)	(Enforcement - Public Water Supply)
JR INVESTMENT GROUP, LLC,)	
an Illinois limited liability company,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On June 12, 2007, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against Jalil “Jerry” Rizqallah, d/b/a Timberline Mobile Home Park (Rizqallah). The complaint concerns a public water supply for a mobile home park located in the Village of Goodfield, Woodford County. On April 26, 2011, seeking to rename the respondent, the People filed a motion for leave to file a first amended complaint, attaching the amended complaint. Along with the motion for leave was a stipulation and proposal for settlement of the first amended complaint, accompanied by a motion for relief from the hearing requirement. In an order of May 5, 2011, the Board granted the People’s motion for leave to file the first amended complaint, reflecting the proper respondent, JR Investment Group (JR Investment). The Board’s order also directed the Clerk to provide public notice of the stipulation, proposed settlement, and request for hearing relief.

In this opinion, the Board first describes the procedural history of the case. The Board then grants the motion for hearing relief and accepts the stipulation and proposed settlement. The Board’s order follows the opinion.

PROCEDURAL HISTORY

The People filed a complaint against Rizqallah on June 12, 2007. In an order of June 21, 2007, the Board found that the People’s complaint met the content requirements of the Board’s procedural rules and accepted the complaint for hearing. Thereafter, the hearing officer and the parties had numerous telephonic status conferences, and the parties pursued settlement. The case has not been to hearing.

On April 26, 2011, the People filed (1) a motion for leave to file a first amended complaint to rename the respondent, accompanied by the amended complaint; (2) a stipulation and proposal to settle the first amended complaint; and (3) a motion for relief from the hearing requirement. On May 5, 2011, the Board issued an order granting the People’s motion for leave to file the first amended complaint, accepting the first amended complaint, and directing the

Clerk to provide public notice of the stipulation, proposed settlement, and motion for hearing relief.

DISCUSSION

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), 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 (2010); 35 Ill. Adm. Code 103. Here, in the first amended complaint, the People allege that JR Investment knowingly allowed the distribution of water with arsenic levels exceeding the standard in the Board's public water supply regulations (35 Ill. Adm. Code 611.301(b)) in violation of Section 611.121(a) of those regulations (35 Ill. Adm. Code 611.121(a)) and Section 18 of the Act (415 ILCS 5/18 (2010)).

On April 26, 2011, the People and JR Investment 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 *Woodford County Journal* on May 19, 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. *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 the 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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. JR Investment admits the alleged violations. The stipulation further provides that JR Investment has installed a water main extending from the Village of Goodfield's municipal water system to the mobile home park, that the Village now provides water to the mobile home park, and that the public water supply which is the subject of the first amended complaint is no longer operational. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2010)), which may mitigate or aggravate the civil penalty amount. JR Investment agrees to pay a civil penalty of \$12,000. The People and JR Investment 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. JR Investment must pay a civil penalty of \$12,000 no later than July 14, 2011, which is the 30th day after the date of this order. JR Investment 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 JR Investment's federal tax identification number must appear on the face of the certified check or money order.

3. JR Investment 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

JR Investment 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 62706

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
5. JR Investment must cease and desist from future violations of the Act and Board regulations that are the subject of the first amended 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) (2010); *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 June 16, 2011, by a vote of 5-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is fluid and cursive, with a long horizontal stroke at the end.

John Therriault, Assistant Clerk
Illinois Pollution Control Board