ILLINOIS POLLUTION CONTROL BOARD July 12, 2012

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 12-129
VILLAGE OF ORLAND HILLS, a municipal)	(Enforcement - Water)
corporation,)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by T.A. Holbrook):

On May 17, 2012, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against the Village of Orland Hills (Orland Hills), which is located in the Southwest suburbs of Chicago, Cook County. The complaint concerns Orland Hill's small municipal separate storm sewer system (MS4). 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 (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. In this case, the People allege that Orland Hills violated Section 12(f) of the Act (415 ILCS 5/12(f) (2010)) and Sections 309.102(a) and 309.104(a) of the Board's water pollution regulations (35 Ill. Adm. Code 309.102(a), 309.104(a)) by failing to timely comply with the National Pollutant Discharge Elimination System (NPDES) permit renewal requirements.

Also on May 17, 2012, the People and Orland Hills 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 *Southtown Star* on June 15, 2012. The Board did not receive any request 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 Orland Hills' 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. Orland Hills does not affirmatively admit the alleged violations. 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. Orland Hills agrees to pay a civil penalty of \$2,400. The People and Orland Hills 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. Orland Hills must pay a civil penalty of \$2,400 no later than August 13, 2012, which is the first business day following the 30th day after the date of this order. Orland Hills 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 Orland Hill's federal tax identification number must appear on the face of the certified check or money order.
- 3. Orland Hills 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

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

Jennifer A. Van Wie Assistant Attorney General Environmental Bureau Illinois Attorney General's Office 69 West 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) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).

5. Orland Hills 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) (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 T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 12, 2012, by a vote of 5-0.

John T. Therriault, Assistant Clerk Illinois Pollution Control Board