ILLINOIS POLLUTION CONTROL BOARD October 16, 2014

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
V.)	PCB 07-83
)	(Enforcement - Water)
EDELSTEIN WATERWORKS CO-OP, an)	
Illinois not-for-profit corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by D. Glosser):

On March 5, 2007, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a seven-count complaint against Edelstein Waterworks Co-Op (Waterworks). The complaint concerns Waterworks' public water works facility located in Edelstein, Peoria County. 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 (2012)), 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 (2012); 35 Ill. Adm. Code 103. In this case, the People allege that Waterworks violated Sections 18, 18(a)(2) and 19 of the Act (415 ILCS 5/18, 18(a)(2), and 19 (2012)) and Sections 601.101, 603.102, 603.103, 603.105(b), 607.104, 611.330, 611.382(c), 611.521(a), 611.522(a), 611.731, 611.831, 611.883, 611.884, and 653.605 of the Board's water supply regulations.); 35 Ill. Adm. Code 601.101, 603.102, 603.103, 603.105(b), 607.104, 611.330, 611.382(c), 611.521(a), 611.522(a), 611.731, 611.831, 611.883, 611.884, and 653.605. The People further allege that Waterworks violated these provisions by:

- 1. Failing to submit monitoring and sampling results;
- 2. Failing to complete reporting requirements;
- 3. Failing to designate an individual in "responsible charge";
- 4. Exceeding the annual average for combined radium and gross alpha particle activity;
- 5. Failing to properly operate the facility;
- 6. Failing to obtain construction and operating permits; and
- 7. Failing to properly prepare consumer confidence reports.

On August 12, 2014, the People and Waterworks 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) (2012)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2012)), 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 *Peoria Journal Star* on September 5, 2014. 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) (2012); 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 Waterworks' 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) (2012)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Waterworks admits the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2012)), which may mitigate or aggravate the civil penalty amount. Waterworks agrees to pay a civil penalty of \$1,425.00. The People and Waterworks 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. Edelstein Waterworks Co-Op (Waterworks) must pay a civil penalty of \$1,425 in two installments. One payment of \$1,000 to be made by November 17, 2014, which is the first business day following the 30th day after the date of this order. A second payment of \$425 to be made by October 16, 2015. Waterworks 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 (EPTF). The case name, case number, and Waterworks' federal tax identification number must appear on the face of the certified check or money order.

3. Waterworks 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

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

Elizabeth Dubats Environmental Bureau Illinois Attorney General's Office 500 South Second Street Springfield, Illinois 62706

- 5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
- 6. Waterworks 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) (2012); 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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 16, 2014 by a vote of 4-0.

John T. Therriault, Clerk Illinois Pollution Control Board