ILLINOIS POLLUTION CONTROL BOARD October 27, 2016

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
V.)	PCB 15-155
••)	(Enforcement - Water)
ILLINOIS AMERICAN WATER COMPAN	VY,)	,
an Illinois corporation,)	
Respondent.)	
Respondent.	,	

OPINION AND ORDER OF THE BOARD (by C.K. Zalewski):

On January 30, 2015, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Illinois American Water Company (IAWC). The complaint concerns IAWC's community sanitary sewer systems, including one located in Mount Prospect, Cook County and one in Lisle, DuPage County. On September 12, 2016, the parties filed a stipulation and proposal for settlement (Stip.) along with a motion for relief from hearing requirement. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act), the Attorney General may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. 415 ILCS 5 (2014); *see* 415 ILCS 5/31 (2014); *see also* 35 Ill. Adm. Code 103. In this case, the People allege that IAWC violated Sections 12(a), 12(d), and 12(f) of the Act by causing or allowing: 1) the release of untreated sewage into storm sewers; 2) deposition of contaminants on land to create a water pollution hazard; and 3) sewer overflows. 415 ILCS 5/12(a), (d), (f) (2014).

On September 22, 2016, the Board directed its clerk to publish notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Chicago Tribune* and the *Naperville Sun* on September 25, 2016. 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) (2014); 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 IAWC's operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act, which bears on the reasonableness of the circumstances surrounding the alleged violations. 415 ILCS 5/33(c) (2014). IAWC does not affirmatively admit the alleged violations. Stip. at 3. However, in addition to the civil penalty, IAWC agrees to: conduct cleaning of the Mt. Prospect system; implement a customer education program; inspect sewer

connections in the Lisle system; and submit a plan for resolution of all remaining, illegal connection issues. *Id.* at 11-13. The stipulation addresses the factors of Section 42(h) of the Act, which may mitigate or aggravate the civil penalty amount. 415 ILCS 5/42(h) (2014). IAWC agrees to pay a civil penalty of \$20,000. *Id.* at 9. The People and IAWC 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. Illinois American Water Company (IAWC) must pay a civil penalty of \$20,000 no later than November 28, 2016, which is the first business day following the 30th day after the date of this order. IAWC 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 and case number must appear on the face of the certified check or money order.
- 3. IAWC 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

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

Evan J. McGinley Assistant Attorney General 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 at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2014)). 415 ILCS 5/42(g) (2014).
- 5. IAWC 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) (2014); 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 opinion and order on October 27, 2016, by a vote of 5-0.

John T. Therriault, Clerk

Illinois Pollution Control Board