

ILLINOIS POLLUTION CONTROL BOARD

April 19, 2007

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 07-37
	)	(Enforcement - Water)
VILLAGE OF DORCHESTER, an Illinois	)	
municipal corporation,	)	
	)	
Respondent.	)	

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

On November 16, 2006, 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 Dorchester (Dorchester), which is located in Macoupin County. The complaint concerns Dorchester’s public water distribution system that serves approximately 150 residents located in the area of Rock Road. The parties now seek to settle. For the reasons below, the Board accepts the parties’ stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2004)), 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 (2004); 35 Ill. Adm. Code 103. In this case, the People allege that Dorchester violated Section 18(a) of the Act (415 ILCS 5/18(a) 2004)) by constructing and operating a one and a half inch service line for use as a water main without permits from the Illinois Environmental Protection Agency and without complying with 35 Ill. Adm. Code 653.117.

On February 28, 2007, the People and Dorchester 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) (2004)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)), 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 *South County News* on March 8, 2007. 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) (2004); 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 Dorchester’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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The People and Dorchester have satisfied Section 103.302. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount. Under the stipulation, Dorchester does not admit the alleged violations and agrees to pay a civil penalty of \$300. 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. Dorchester must pay a civil penalty of \$300 no later than May 21, 2007, which is the first business day following the 30th day after the date of this order. Dorchester must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund.
3. Dorchester 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

Dorchester must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to:

Peggy Poitevint  
Assistant Attorney General  
Environmental Bureau  
Office of the Attorney General  
500 South Second Street  
Springfield, Illinois 62702

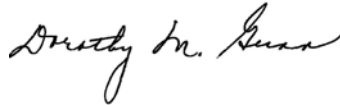
Joey Logan-Wilkey  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
5. Dorchester must cease and desist from future violations of the Act and 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) (2004); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on April 19, 2007, by a vote of 3-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board