

ILLINOIS POLLUTION CONTROL BOARD
June 21, 2001

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 01-3
) (Enforcement – Public Water Supply)
CITY OF WINCHESTER, an Illinois)
municipal corporation, BENTON &)
ASSOCIATES, INC., a Delaware corporation,)
and R&G CONSTRUCTION, an Illinois)
corporation,)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by S.T. Lawton, Jr.):

On July 7, 2000, the People of the State of Illinois (People) filed a complaint against respondents City of Winchester, Benton & Associates, Inc., and R&G Construction. The complaint alleges that respondents failed to supply assuredly safe water by not adequately separating water and sewer main lines during the installation of water mains in Winchester, Scott County, Illinois. This activity was alleged to be in violation of Sections 15, 17(a), and 18 of the Environmental Protection Act (Act) (415 ILCS 5/15, 5/17(a), 5/18 (2000)); 35 Ill. Adm. Code 601.101, 602.101, 602.102, 652.201, 607.104(b), and 653.119; and Section 8.6 of the Recommended Standards for Water Works.

The Board considers two matters concerning the People and respondents, City of Winchester and Benton & Associates, Inc. in this order. The Board directs the Clerk to publish the stipulation and proposal for settlement filed by the People and Benton & Associates, Inc. on May 24, 2001. The Board also accepts the May 10, 2001 stipulation and proposed settlement agreement executed by the People and respondent, City of Winchester. The Board grants a waiver of the hearing requirement for the City of Winchester in this matter. The Board sets forth its reasons below.

FILING AND PUBLICATION OF STIPULATION AND PROPOSAL FOR SETTLEMENT
AS TO BENTON & ASSOCIATES, INC.

On May 24, 2001, the complainant and respondent, Benton and Associates, Inc., filed a stipulation and proposal for settlement, accompanied by a motion requesting relief from the hearing requirement of Section 31(c)(1) of the Act. 415 ILCS 5/31(c)(1) (2000). Benton and Associates, Inc. denies the alleged violations in the complaint as listed above, but proposes to pay a \$12,000 penalty.

Pursuant to Section 31(c)(2) of the Act, the complainant may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the hearing requirement. 415 ILCS 5/31(c)(2) (2000). Unless the Board determines that a hearing is needed, the Board is required to publish notice of the stipulation and proposal for settlement and request for relief from the hearing requirement.

Accordingly, the Board directs the Clerk of the Board to cause publication of the required newspaper notice. Any person may file a written demand for hearing within 21 days of the published notice. If a hearing is requested, the Board will deny the parties' request for relief and schedule a hearing.

WAIVER OF HEARING REQUIREMENT AND ACCEPTANCE OF STIPULATION AND
SETTLEMENT AS TO CITY OF WINCHESTER

On May 10, 2001, the People and respondent, City of Winchester, filed a stipulation and proposal for settlement, accompanied by a motion requesting relief from the hearing requirement of Section 31(c)(1) of the Act. 415 ILCS 5/31(c)(1) (2000). Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000)), the Board caused publication of the required newspaper notice of the stipulation and proposal for settlement and request for relief from the hearing requirement. The notice appeared in the *Scott County Times* on May 16, 2001. The Board did not receive any requests for hearing. Accordingly, the Board grants a waiver from the hearing requirement for respondent, City of Winchester.

The stipulation and proposal for settlement, as proposed by the People and the City of Winchester, sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. Respondent, City of Winchester, admits to the violations alleged by the People, and agrees to pay a civil penalty of \$2,000.

The Board accepts the stipulation and proposal for settlement filed by the People and the City of Winchester in this matter. The City of Winchester shall continue to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's regulations.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter. The Board notes that the two stipulations and proposals for settlement by the People and respondents, City of Winchester and Benton & Associates, Inc., do not include respondent, R&G Construction.

ORDER

1. The Board directs the Clerk of the Board to cause publication of the required newspaper notice for the proposed stipulation and settlement agreement executed by the People of the State of Illinois and respondent, Benton & Associates, Inc.
2. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and respondent, City of Winchester. The

stipulation and settlement agreement by these parties is incorporated by reference as though fully set forth herein.

3. Respondent, City of Winchester, must pay a civil penalty of \$2,000. Payment must be made within 30 days of the date of this order, that is, on or before July 21, 2001. Such payment must be made by certified check or money order payable to the Illinois Environmental Protection Agency, for deposit in the Environmental Protection Trust Fund. The case number, case name, and Respondent's Federal Employer Identification number 37-6002092 must also be included on the certified check or money order and clearly indicate that payment is directed to the Environmental Protection Trust Fund.
4. The check or money order for the \$2,000 penalty against the City of Winchester must be sent by first class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
5. A copy of the payment transmittal and check shall be simultaneously submitted to:

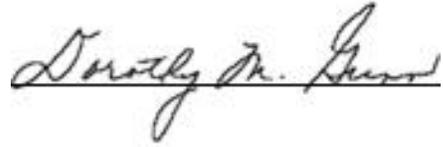
Office of the Attorney General
Sally A. Carter, Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
6. Any such penalty not paid within the time prescribed incurs interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003 (2000)), as now or hereafter amended, from the date payment is due until the date payment is received. Interest does not accrue during the pendency of an appeal during which payment of the penalty has been stayed.
7. Respondent, City of Winchester, shall cease and desist from future alleged violations of any federal, State, or local environmental statutes and regulations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (2000)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.520, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the

above opinion and order was adopted on the 21st day of June 2001 by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board