ILLINOIS POLLUTION CONTROL BOARD January 22, 2009

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,))	
V.)	PCB 05-163
)	(Enforcement)
PEKIN PAPERBOARD COMPANY,)	
a Delaware limited partnership,)	
)	
Respondent.)	

ORDER OF THE BOARD (by S.D. Lin):

On March 11, 2005, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Pekin Paperboard Company (Pekin). The complaint concerns a waste water treatment plant (WWTP) onsite at Pekin's cereal container manufacturing facility, located at 1525 South Second Street, Pekin, Tazewell County. Discharges from the WWTP are authorized pursuant to National Pollution Discharge Elimination System (NPDES) Permit Number IL0037729. The parties now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2006); 35 Ill. Adm. Code 103. In this case, the People proffer three counts that allege violations of Sections 12(a) and (f) of the Act (415 ILCS 5/12(a) and (f) (2006)), and the Board's Regulations 302.203, 304.105, 304.106, 304.120, 304.141(a), 306.102, and 309.102(a) (35 Ill. Adm. Code 302.203, 304.105, 304.106, 304.120, 304.141(a), 306.102, and 309.102(a))¹.

Count I alleges that Pekin violated Section 12(f) of the Act (415 ILCS 5/12(f) (2006)) and Sections 304.120, 304.141(a), and 309.102(a) by causing or allowing the discharge of contaminants into waters of the State in violation of the terms or conditions of its NPDES permit, and by failing to maintain adequate storm water management controls at its facility as required by the permit. Count I further alleges that Pekin violated Section 12(a) of the Act (415 ILCS 5/12(a) (2006)) by causing or allowing the discharge of contaminants into waters of the State so as to violate standards adopted by the Board under the Act.

¹ The complaint included Count IV which alleged violations of Section 12(b) of the Act (415 ILCS 5/12(b) (2006)) and Section 309.154 of the Board's rules (35 Ill. Adm. Code 309.154). The stipulation does not reference these allegations.

Count II alleges that Pekin violated Section 12(f) of the Act (415 ILCS 5/12(f) (2006)) and Section of 309.102(a) of the Board's Water Pollution Regulations by failing to sample each of the WWTP's permitted outfalls as required, and discharging contaminants into waters of the State in violation of the terms of its NPDES permit. Count II also alleges that Pekin violated Section 306.102 of the Board's Water Pollution Regulations by allowing bypasses and overflows of untreated wastewater. Finally, Count II alleges that Pekin violated Section 12(a) of the Act (415 ILCS 5/12(a) (2006)) by discharging contaminants into waters of the State so as to violate standards adopted by the Board under the Act.

Count III alleges that Pekin violated Section 304.106 of the Board's Water Pollution Regulationsby causing or allowing the discharge of effluent. Such discharge resulted in violations of water quality standards, thereby violating Sections 302.203 and 304.105 of the Pollution Control Board's Water Pollution Regulations, and Section 12(a) of the Act. Count III further alleges that Pekin violated Section 12(a) of the Act (415 ILCS 5/12(a) (2006)) by causing or allowing the discharge of contaminants in such a manner as to cause or threaten water pollution.

On January 13, 2009, the People and Pekin 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) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)), 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). Under the proposed stipulation, Pekin neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$65,000.00.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2006); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 22, 2009, by a vote of 5-0.

John T. Therian

John Therriault, Assistant Clerk Illinois Pollution Control Board