

ILLINOIS POLLUTION CONTROL BOARD
December 15, 2011

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB - 12-59
) (Enforcement - Water)
VILLAGE OF CAVE-IN-ROCK, an Illinois)
municipal corporation, and MAIER'S TIDY)
BOWL, INC., an Illinois corporation,)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by T.A. Holbrook):

On October 24, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against the Village of Cave-in-Rock (Village) and Maier's Tidy Bowl, Inc. (MTB). The complaint concerns the Village's waste water treatment plant, which discharges treated waste into an unnamed tributary of the Ohio River, and is located in the east half of section 14, Township 12 South, Range 3 East of the Third Meridian, Village of Cave-In-Rock, Hardin County. Accompanying the complaint was a stipulation, proposal for settlement, and request for relief from the hearing requirement for MTB only. The Village was not a party to the proposed settlement. The People and MTB therefore seek to settle the complaint without a hearing. For the reasons below, the Board accepts the stipulation and proposed settlement between the People and MTB only.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), 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 (2010); 35 Ill. Adm. Code 103. In this case, the People allege:

- Count I: The Village and MTB violated Section 12(a) of the Act (415 ILCS 5/12(a) (2010)) by causing or allowing the discharge of raw sewage into waters of the State so as to cause water pollution,
- Count II: The Village violated Section 306.304 of the Board's Water Pollution Regulations (35 Ill. Adm. Code 306.304); NPDES Permit Conditions; and Section 12(f) of the Act (415 ILCS 5/12(f) (2010)) by allowing untreated sewage to overflow or bypass the lift station and sanitary sewer lines,
- Count III: The Village and MTB violated Section 302.203 of the Board's Water Pollution Regulations (35 Ill. Adm. Code 302.203) and Section 12(a) of the Act (415 ILCS 5/12(a) (2010)) by allowing a discharge of black,

odorous, raw sewage directly into the tributary, thereby causing color and odor of unnatural origin in the tributary,

- Count IV: The Village violated Section 304.106 of the Board's Water Pollution Regulations (35 Ill. Adm. Code 304.106) and Section 12(a) of the Act (415 ILCS 5/12(a) (2010)) by causing or allowing a liquid discharge exhibiting a raw sewage odor from sanitary sewer lines across a parking lot and into the Ohio River, and both the Village and MTB violated Section 304.106 of the Board's Water Pollution Regulations (35 Ill. Adm. Code 304.106) and Section 12(a) of the Act (415 ILCS 5/12(a) (2010)) by causing or allowing a liquid discharge exhibiting obvious turbidity and a raw sewage odor to the tributary, and
- Count V: The Village violated Section 306.102(a) of the Board's Water Pollution Regulations (35 Ill. Adm. Code 306.102(a)) by failing to maintain an operable backup pump at its lift station so as to minimize violations of applicable standards, and Section 12(a) of the Act (415 ILCS 5/12(a) (2010)) by causing, threatening, or allowing the discharge of raw sewage so as to violate Board regulations.

On October 24, 2011, the People and MTB 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) (2010)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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 *Hardin County Independent* on November 17, 2011. The Board did not receive any requests for hearing. The Board grants the People's and MTB's request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2010); 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 MTB'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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. MTB neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2010)), which may mitigate or aggravate the civil penalty amount. MTB agrees to pay a civil penalty of \$1,925.00. The People and MTB 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. MTB must pay a civil penalty of \$1,925.00 no later than January 17, 2012, which is the first business day following the 30th day after the date of this order. MTB 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, case number, and MTB's federal tax identification number must appear on the face of the certified check or money order.
3. MTB 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.

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

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

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
5. MTB 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) (2010); *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, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 15, 2011 by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board