

ILLINOIS POLLUTION CONTROL BOARD
October 5, 2017

ILLINOIS ENVIRONMENTAL)	
PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	AC 18-1
)	(IEPA No. 112-17-AC)
MURNER SWANSON)	(Administrative Citation)
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by G.M. Keenan):

On August 9, 2017, the Illinois Environmental Protection Agency (Agency) timely filed an administrative citation (AC) alleging that Murner Swanson violated the Public Water Supply Operations Act (PWSO Act) and the Board’s public water supplies regulations. 415 ILCS 45/23.1(b) (2016); *see* 415 ILCS 5/31.1(c) (2016); 35 Ill Adm. Code 108.201(a). For the reasons below, the Board finds that Murner Swanson violated the PWSO Act (415 ILCS 45 (2016)) and imposes \$2,500 in civil penalties.

Under the PWSO Act, community water supplies other than exempt community water supplies must have on their operational staff at least one person certified as a Responsible Operator in Charge (ROINC), and all portions of the water supply system must be under the supervision of a ROINC. 415 ILCS 45/1 (2016). The duties of a ROINC include submission—according to Board rules—of consumer confidence reports, monthly operating reports, and drinking water compliance monitoring results such as corrosion control reports and monitoring results. 415 ILCS 45/1.1(b)(3) (2016); 35 Ill. Adm. Code 603.103(g). Monthly operating reports must be submitted to the Agency within 30 days following the last day of the month. 35 Ill. Adm. Code 611.831.

The Agency states that Murner Swanson is currently the ROINC for Lindentree Townhomes (IL0310370), Prairie Trails of Long Grove (IL0971200), The Preserve at Long Grove (IL0970310), Promontory Pointe Homeowners Association (IL0970320), and Royal Melbourne Homeowners Association (IL0970170). AC at 2. These facilities are public water supplies. *Id.*; *see* 415 ILCS 45/5(a) (2016).

On August 3, 2017, the Agency conducted a records review of these facilities. AC at 2. The Agency alleges that Murner Swanson violated Section 1.1(b)(3) of the PWSO Act (415 ILCS 45/1.1(b)(3) (2016)) and Section 603.103(g) and 611.831 of the Board’s public water supplies regulations (35 Ill. Adm. Code 603.103(g), 611.831) by failing to submit monthly operating reports for the facilities within 30 days following the last day of the month for May, June, and July 2017. *Id.* at 2-3.

As required, the Agency served Murner Swanson with the administrative citation within “90 days after the date of discovery of the violation.” 415 ILCS 45/23.1(b) (2016); *see also* 35 Ill. Adm. Code 108.201(b)(1). The Agency’s Certificate of Service certifies that the Agency served the administrative citation on Murner Swanson by certified mail on August 9, 2017. AC Cert. of Service; *see* 415 ILCS 45/23.1(b) (2016). On August 16, 2017, the Agency filed a copy of a UPS delivery receipt showing Murner Swanson received the Administrative Citation packet of information on August 10, 2017. Notice of Filing (Aug. 16, 2017).

To contest an administrative citation, a respondent must file a petition with the Board no later than 35 days after being served with the administrative citation. If the respondent fails to do so, the Board must find that the respondent committed the violations alleged and impose the corresponding civil penalty. *See* 415 ILCS 45/23(d) (2016). The record in this case shows that Murner Swanson was served on August 10, 2017. Murner Swanson failed to timely file a petition. Accordingly, the Board finds that Murner Swanson violated Section 1.1(b)(3) of the PWSO Act. 415 ILCS 45/1.1(b)(3) (2016); *see* 415 ILCS 45/23(d) (2016).

The civil penalty for violating Section 1.1(b)(3) is \$500 for each violation. *See* 415 ILCS 45/23.1(f) (2016). Because there are five violations of this Section, the total civil penalty is \$2,500. Under Section 23.1(d)(1) of the PWSO Act, the Board attaches the administrative citation and makes it part of the order below.

This opinion constitutes the Board’s finding of fact and conclusions of law.

ORDER

1. The Board finds that Murner Swanson violated Section 1.1(b)(3) of the Public Water Supply Operations Act (415 ILCS 45/1.1(b)(3) (2016)).
2. Murner Swanson must pay a civil penalty of \$2,500 no later than November 6, 2017, which is the first business day following the 30th day after the date of this order. Murner Swanson must pay the civil penalty by certified check or money order, made payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and Murner Swanson’s social security number or federal employer identification number must be included on the certified check or money order.
3. Murner Swanson must send the certified check or money order and the remittance form to:

Illinois Environmental Protection Agency
Fiscal Services Division
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) (2016)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2016)).
5. Payment of this penalty does not prevent future prosecution if the violations continue.

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) (2016); *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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court	
Parties	Board
Illinois Environmental Protection Agency Attn: Michael S. Roubitchek 1021 North Grand Avenue East P.O. Box 19276 Springfield, IL 62794 Mike.Roubitchek@illinois.gov	Illinois Pollution Control Board Attn: Don A. Brown, Clerk James R. Thompson Center 100 West Randolph Street, Suite 11-500 Chicago, Illinois 60601
Murner Swanson 509 East Park Avenue Libertyville, IL 60048	

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on October 5, 2017, by a vote of 5-0.



Don A. Brown, Clerk
 Illinois Pollution Control Board