

ILLINOIS POLLUTION CONTROL BOARD

June 7, 2001

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| PEOPLE OF THE STATE OF ILLINOIS, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| v. |) | PCB 01-133 |
| |) | (Enforcement – Public Water Supply) |
| CITY OF GIBSON CITY, |) | |
| |) | |
| Respondent. |) | |

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

On March 29, 2001, the People of the State of Illinois (People) filed a one-count complaint against respondent the City of Gibson City (Gibson City). The complaint alleges Gibson City caused or allowed the construction of a water main without a construction permit in Gibson City, Ford County, Illinois. This activity was in alleged violation of Sections 15(a) and 18(a) of the Environmental Protection Act (Act) (415 ILCS 5/15(a), 18(a) (2000)), and the Board’s public water supply regulations at 35 Ill. Adm. Code 602.101(a).

Also on March 29, 2001, the parties 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 Gibson City Courier* on April 4, 2001. The Board did not receive any requests for hearing. Accordingly, the Board grants a waiver from the hearing requirement.

The stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. The stipulation and proposal for settlement also specifically discusses and evaluates the Act’s Section 42(h) factors that are to be considered in determining the appropriateness of a civil penalty. For example, the People assert that the alleged violations were a “one-time occurrence” and that respondent has shown due diligence in now applying for an “as-built” operating permit. Further, the People state that the only economic benefit realized by the respondent was the savings realized by not obtaining the construction permit. Accordingly, the People propose a stipulated penalty in the amount of \$2,000, payable to the Environmental Protection Trust Fund, plus a “supplemental environmental project” in the amount of \$1,500 for emergency training of Gibson District Fire Protection personnel. The People assert that such penalty “will serve to deter future violations and aid in future voluntary enforcement of the Act and applicable Board rules and regulations.”

The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. Gibson City must 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.

ORDER

1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and the City of Gibson City (Gibson City). The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. Gibson City must contribute \$1,500 to the Gibson City Fire Protection District. Payment must be made within 30 days of the date of this order, that is, on or before July 7, 2001.
2. Gibson City 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 7, 2001. Such payment must be made by certified check or corporate check payable to the Treasurer of the State of Illinois, for deposit in the Environmental Protection Trust Fund. The case number, case name, and Gibson City's federal employer identification number must also be included on the certified check or corporate check and clearly indicate that payment is directed to the Environmental Protection Trust Fund.
3. The certified check or corporate check 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

A copy of the payment transmittal and check shall be simultaneously submitted to:

Office of the Attorney General
Donna Lutes, Environmental Bureau
500 South Second Street
Springfield, Illinois 62706

4. 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

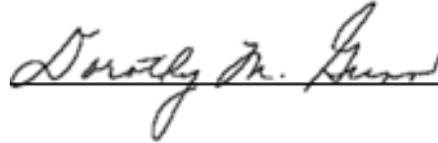
ILCS 5/1003 (2000)), as now or hereafter amended, from the date payment is due until the date payment is received. Interest does not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

5. Gibson City must cease and desist future alleged violations of any federal, State, or local 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 7th day of June 2001 by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board