

ILLINOIS POLLUTION CONTROL BOARD

March 2, 2006

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 06-133
) (Enforcement - Land, Water)
CITY OF FLORA, an Illinois municipal)
corporation,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On January 18, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against the City of Flora. See 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. Accompanying the complaint was a stipulation and proposal for settlement. The complaint concerns the City of Flora's 121-acre municipal No. 2 landfill off Route 1 South in the northeast quarter of Section 2, Township 2 North, Range 2 East, in Harter Township, Clay County. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 et seq. (2004)), 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 (2004); 35 Ill. Adm. Code 103. In this case, the People allege that the City of Flora violated Sections 12(a) 21(d)(1), (d)(2), and (e) of the Act (415 ILCS 5/12(a) 21(d)(2) and (e) (2004)) and 35 Ill. Adm. Code 620.115, 620.420(a), 620.405, 745.181, 807.302, 807.305, 807.306, 807.311, 807.502, and 807.508. The People further allege that the City of Flora violated these provisions by (1) violating final cover requirements; (2) allowing litter to accumulate; (3) causing or allowing the open burning of vegetation; (4) failing to have a designated operator; (5) failing to close in a manner that minimizes the need for further maintenance; (6) failing to submit an affidavit of closure by a professional engineer; (7) failing to comply with various special conditions to its operating permits that relate to groundwater quality; (8) violating various groundwater quality standards; and (9) causing or allowing contaminants in the groundwater.

The January 18, 2006 stipulation and proposed settlement was accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2004)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)), 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 from hearing. The Board published newspaper notice in the *Daily Clay County Advocate Express* on January 23, 2006. The Board did not receive any requests for hearing. The

Board grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2004); 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. 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 the City of Flora'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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

The City of Flora admits the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount. The City of Flora agrees to pay a civil penalty of \$9,600, which the People asserts is sufficient to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

The People and the City of Flora have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement. This docket is now closed.

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. The City of Flora must pay a civil penalty of \$9,600 no later than April 3, 2006, which is the first business day after the 30th day after the date of this order. The City of Flora must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Environmental Protection Trust Fund. The case number, case name, and the City of Flora's social security number or federal employer identification number must be included on the certified check or money order.
3. The City of Flora must send the certified check, money order, or electronic funds transfer to the following person at the indicated address:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. The City of Flora must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following persons at the indicated addresses:

Kristen Laughridge, Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62702

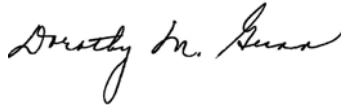
James Kropid, Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
6. The City of Flora must cease and desist from the alleged violations.

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) (2004); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 2, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board