

ILLINOIS POLLUTION CONTROL BOARD  
May 4, 2006

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 06-90  
) (Enforcement – Public Water Supply)  
VILLAGE OF VOLO, a municipal )  
corporation, and SMITH ENGINEERING )  
CONSULTANTS, INC., an Illinois )  
corporation, )  
)  
Respondents. )

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On December 9, 2005, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against the Village of Volo (Volo) and Smith Engineering Consultants, Inc. (Smith Engineering) (collectively, respondents). *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. Smith Engineering was a consultant and certified operator of Volo’s public water supply. The People allege that the respondents violated Sections 15(a), 18(a) of the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2004)) and Sections 602.101(a), 602.102, 652.101(a), and 652.201 of the Board’s water supply regulations. 415 ILCS 5/15(a) and 18(a) (2004); 35 Ill. Adm. Code 602.101(a), 602.102, 652.101(a), 652.201. The People further allege that the respondents violated these provisions by failing to submit plans and specifications for a public water supply before construction, constructing and operating a public water supply without a permit, and constructing a community water supply without a permit. The complaint concerns the Volo’s public water supply located in Volo, Lake County.

On March 30, 2006, the People and the respondents 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) (2004)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)). *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 *Fox Lake Journal* on April 7, 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 Volo’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)). The People and the respondents have

satisfied Section 103.302. Under the proposed stipulation, the respondents deny the alleged violations and agree to pay a civil penalty of \$8,000. 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. The Village of Volo and Smith Engineering Consultants, Inc. (respondents) must pay a civil penalty of \$8,000 no later than June 3, 2006, which is the 30th day after the date of this order. Respondents must pay the civil penalty by certified check payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and the Smith Engineering Consultants, Inc.'s federal employer identification number must be included on the certified check.
3. The respondents must send the certified check 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 check and any transmittal letter shall be sent to:

Michael C. Partee (or designee)  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph Street, Suite 2001  
Chicago, IL 60601

Charles W. Gunnarson (or designee)  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

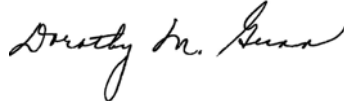
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).

5. The respondents 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 May 4, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board