

ILLINOIS POLLUTION CONTROL BOARD
September 7, 2000

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 99-72
) (Enforcement – Public Water Supply)
LAKE OF EGYPT WATER DISTRICT and GARY R.)
RHODES,)
)
Respondents.)

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

On December 2, 1998, the People of the State of Illinois (People) filed a complaint against Willis Dale Shadowens, Gary Rhodes (Rhodes), and Lake of Egypt Water District (District).¹ The complaint alleged that respondents violated Sections 15, 16.1, 18, and 19 of the Environmental Protection Act (Act) (415 ILCS 5/15, 16.1, 18 and 19 (1998)), and the Board's regulations at 35 Ill. Adm. Code 601.101, 602.101, 602.102, 602.115, 611.251, 611.262(b), 652.102, and 652.203 by constructing and operating water main extensions without construction and operation permits, failing to pay water main extension and modification fees, failing to properly disinfect water main extensions and a water tank, failing to properly collect turbidity samples, and falsifying monthly turbidity reports. On July 28, 2000, complainant and respondents Rhodes and District filed a stipulation and proposal for settlement, accompanied by a motion requesting relief from the hearing requirement pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31 (c)(2) (1998)). The Board accepts the stipulation and proposal for settlement filed by the parties in this matter.

Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (1998)), 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 Vienna Times* on August 3, 2000, and the *Marion Daily Republican* on July 29, 2000. 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. Respondent District agrees to pay a civil penalty of \$25,000. The penalty shall be paid monthly in installments of \$1,000. Additionally, the stipulation provides that the District will pay contingent penalties of \$500 per month for non-compliance under specified circumstances. Respondents must continue to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's regulations. As the case has now been settled by all parties this docket is closed.

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 Lake of Egypt Water District and Gary Rhodes. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.

¹ On June 26, 2000, the People and Willis Dale Shadowens filed a stipulated agreement on all outstanding issues in this matter. The Board accepted the June 26, 2000 agreement on July 27, 2000.

2. Respondent District shall pay the sum of \$25,000 in monthly installments of \$1,000 beginning within 30 days of the date of this order *i.e.*, on or before October 7, 2000. The payments must be received by 10th day of each month. Such payments shall be made by certified check or money order payable to the Illinois Environmental Protection Agency (Agency), designated to the Environmental Protection Trust Fund. The case number, case name, and the respondent's federal employer identification number shall also be included on the certified check or money order and should clearly indicate that payment is directed to the Environmental Protection Trust Fund.
3. The check or money order shall 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:

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

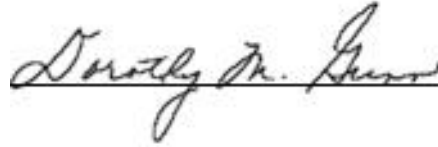
4. Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003 (1998)), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.
5. If the respondent, Lake of Egypt Water District, fails to comply with any material requirement set forth in the Stipulation and Proposal for Settlement, the Agency shall notify the respondent District of the alleged failure and provide 30 days additional time for the resolution of the alleged failure. In the event the parties cannot resolve the alleged failure, respondent shall pay in contingent penalties the sum of \$500 per month of noncompliance, until such time as requirements are complied with, said penalty to be paid to the Environmental Protection Trust Fund in the manner provided above.
6. The District shall complete a project to investigate and resolve the water main extension problems through repair, replacement, and/or permitting according to the priority list approved by the Agency. The project is incorporated into the July 28, 2000 stipulation on Exhibit A.
7. The District shall submit written quarterly reports summarizing the activities of the past quarter, and listing the ongoing and planned activities for the present quarter, by January 15th, April 15th, July 15th, and October 15th to the Agency at the agreed upon addresses.
8. Respondents District and Rhodes shall 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 (1998)) 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 101.246, 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 September 2000 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