

ILLINOIS POLLUTION CONTROL BOARD
September 7, 2006

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 07-4
)	(Enforcement - Water)
VILLAGE OF TINLEY PARK,)	
)	
Respondent.)	

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

On July 19, 2006, the Office of the Attorney General, on her own motion and at the request of the People of the State of Illinois (People), filed a six-count complaint against Village of Tinley Park (Village). *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 discharge of 5,000 gallons of sewage through a crack in Village of Tinley Park’s sewage main at 171st Street and 80th Avenue, in Tinley Park, Cook County into Midlothian Drainage Ditch.

The People allege that the Village violated Sections 12(a), (d), and (f) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), (d), and (f) (2004)) and 35 Ill. Adm. Code 302.203, 304.105, 304.106, 306.102, 306.304, and 309.102(a). The People further allege that the Village violated these provisions by (1) causing, threatening, or allowing gray sediment to accumulate in a drainage ditch, thereby causing, threatening, or allowing water pollution; (2) depositing raw sewage on land in a way that created a water pollution hazard; (3) causing, threatening, or allowing the deposit of pollutants into waters of the State without a National Pollutant Discharge Elimination System permit; (4) causing or allowing a discharge of untreated sewage that resulted in a violation of the water quality standard; (5) causing or allowing a threatening an offensive discharge containing settleable solids and having an offensive odor into the waters of the State; and (6) failing to employ appropriate preventative measures so as to cause the discharge of untreated sewage into waters of the State.

On July 19, 2006, the People and the Village 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)), 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 Southtown* on July 26, 2006; any timely hearing request was due to be filed

August 16, 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 respondents 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 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.

Under the proposed stipulation, the Village neither admits nor denies the alleged violations but agrees to pay a civil penalty of \$14,000. But the People agree to mitigate the civil penalty to \$5,000, based on the Village's commitment to undertake a supplemental environmental project (SEP) that has an approximate value of \$30,000. The SEP, scheduled under the terms of the stipulation for completion by July 30, 2006, will involve restoration and stabilization of the stream bank along Midlothian Creek in the areas of Gentry Lane and Lakewood Drive in the Edgewater Walk subdivision, to improve water quality in the Little Calumet watershed. The SEP involves stabilizing 400 feet of stream bank and the removal of litter from 2,000 feet of stream. The project will also include regrading the banks, placing riprap on slopes, and placing native vegetation.

The People and the Village have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement. The Board has outlined the gist, but not the details, of the stipulation's contents in the order below. In summary, the Board assesses a civil penalty of \$14,000, mitigated to \$5,000 payable by October 9, 2006, based on the Village's commitment to undertake a supplemental environmental project (SEP) that has an approximate value of \$30,000. The Board orders the Village to complete the SIP, and to cease and desist from violations.

The Board notes that the stipulation by its terms requires completion of the SEP by July 31, 2006. As the stipulation was filed with the Board on July 18, 2006, the Board assumes that the project was well underway at that time. So, the Board has not amended the completion date, but allows the Village to certify completion by October 9, 2006 if it has not already done so. If the Village fails to perform the SEP as stipulated, the Village must pay an additional \$9,000 within 30 days, as agreed by the parties in the stipulation.

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. In summary, the Board assesses a civil penalty of \$14,000, mitigated

to \$5,000 based on the Village's commitment to undertake a supplemental environmental project (SEP) that has an approximate value of \$30,000.

2. The Village of Tinley Park, through its attorney of record, must pay a civil penalty of \$5,000 no later than October 9, 2006, which is the first business day after the 30th day after the date of this order. The Village's attorney must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Illinois Environmental Protection Agency, designated for deposit into the Environmental Protection Trust Fund. The case number, case name, and the Village's federal employer identification number must be included on the certified check, money order, or electronic funds transfer statement.
3. The Village, through its attorney of record, must send the certified check, money order, or electronic funds transfer to the following address:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

4. The Village, through its attorney of record, must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following person at the indicated address:

Jennifer A. Tomas
Assistant Attorney General
Environmental Bureau
500 West Randolph St, Suite 2001
Chicago, Illinois 60601

5. The Village must undertake the SEP as described in Section VIII C of the stipulation, which by its terms required completion of the SEP by July 31, 2006. The SEP involves restoration and stabilization of the stream bank along Midlothian Creek in the areas of Gentry Lane and Lakewood Drive in the Edgewater Walk subdivision, to improve water quality in the Little Calumet watershed. The SEP involves stabilizing 400 feet of stream bank and the removal of litter from 2,000 feet of stream. The project will also include regrading the banks, placing riprap on slopes, and placing native vegetation. If it has not already done so in accord with the stipulation's timetable, no later than October 9, 2006, the Village must certify completion of the SEP to the Agency and the Office of the Attorney General at the addresses listed in paragraphs 3 and 4 of this order.
6. In the event that the Village fails to implement the SEP as described in paragraph

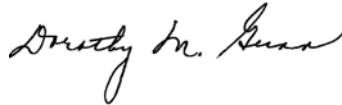
5 above, the Village must remit the amount of \$9,000 to the Agency within 30 calendar days after the event(s) or circumstance(s) resulting in the nonperformance. Payment must be made as specified in paragraphs 3 and 4 of this order.

7. 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)).
8. The Village 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 September 7, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board