ILLINOIS POLLUTION CONTROL BOARD December 6, 2007

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
Comp.minn,)	DGD 07 10
V.)	PCB 07-40
)	(Enforcement - Water)
VILLAGE OF BROWNING, Illinois)	
municipal corporation,)	
)	
Respondent.)	

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

On November 20, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against the Village of Browning (respondent) concerning respondent's water supply and treatment facility located in the Village of Browning, Schuyler County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), 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 (2006); 35 Ill. Adm. Code 103. In this case, the People allege in count I of the complaint that respondent violated Sections 601.101 and 611.240(g) of the Board's public water supply regulations (35 Ill. Adm. Code 601.101, 611.240(g)) by failing to maintain the minimum chlorine residual in all active parts of the water supply distribution system. In count II, the People allege that respondent violated Section 611.125 of the Board's public water supply regulations (35 Ill. Adm. Code 611.125) and Section 18(a)(2) of the Act (415 ILCS 5/18(a)(2) (2006)) by failing to maintain a fluoride ion concentration in the range of 0.9 milligrams per liter (mg/L) to 1.2 mg/L in its distribution system. Count III of the complaint alleges that respondent violated Section 611.831 of the Board's public water supply regulations (35 Ill. Adm. Code 611.831), Sections 653.605 and 653.704 of the Illinois Environmental Protection Agency's Technical Policy Statements (35 Ill. Adm. Code 653.605, 653.704), and Section 19 of the Act (415 ILCS 5/19 (2006)) by failing to submit complete reports and records from at least February 2003 through April 2004.

On September 25, 2007, the People and respondent 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) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)), 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. The newspaper notice was published in the *Rushville Times* on October 24, 2007. 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) (2006); 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. *See* 35 III. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of respondent'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) (2006)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Respondent admits the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2006)), which may mitigate or aggravate the civil penalty amount. Respondent agrees to pay a civil penalty of \$300. The People and respondent have satisfied Section 103.302. 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. Respondent must pay a civil penalty of \$300 no later than December 17, 2007, which is first business day following the 10th day after the date of this order. Respondent must pay the civil penalty by certified check payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund. The case name and case number must appear on the certified check.
- 3. Respondent must submit payment of the civil penalty to:

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

Respondent must send a copy of the certified check and any transmittal letter to:

Peggy Poitevint Office of the Attorney General Environmental Bureau 500 South Second Street Springfield, Illinois 62702

Joey Logan-Wilkey Assistant Counsel Illinois Environmental Protection Agency 1021 North Grand Avenue East P.O. Box 19276 Springfield, Illinois 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) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).
- 5. Respondent must cease and desist from future violations of the Act and the Board regulations that were the subject matter of the complaint.

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) (2006); 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, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 6, 2007, by a vote of 4-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board