

ILLINOIS POLLUTION CONTROL BOARD

August 7, 2008

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 08-100
	)	(Enforcement - Water)
CITY OF GENEVA,	)	
an Illinois municipal corporation,	)	
	)	
Respondent.	)	

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

On June 25, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against the City of Geneva, an Illinois municipal corporation (Geneva). The complaint concerns Geneva’s construction and installation of a water main at 429 North Kirk Road, Geneva, Kane 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 that Geneva violated Sections 15(a), 18(a)(2) and 18(a)(3) of the Act (415 ILCS 5/15(a), 18(a)(2), 18(a)(3) (2006)) and Sections 602.101(a) and 652.101(a) of the Illinois public water supply regulations (35 Ill. Adm. Code 602.101(a), 652.101(a)). The People allege that Geneva violated these provisions by (1) failing to obtain written approval from the Illinois Environmental Protection Agency (Agency) before starting the construction of the water main; (2) failing to obtain a construction permit from the Agency before constructing and installing the water main; (3) causing or allowing a change of or addition to an existing public water supply without a permit granted by the Agency; and (4) altering, changing, or adding to an existing community water supply that may affect the adequacy of the water supply without a permit issued by the Agency.

On June 25, 2008, the People and Geneva also 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 *Geneva Republican* on July 3, 2008. 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 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 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. Geneva admits to 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. Geneva agrees to pay a civil penalty of \$5,000. The People and Geneva have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

This opinion and order 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. Geneva must pay a civil penalty of \$5,000.00 no later than September 8, 2008, which is first business day following the 30th day after the date of this order. Geneva must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund. The case name, case number, and Geneva's Federal Employer Identification Number must appear on the face of the certified check or the money order.
3. Geneva 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

Geneva must send a copy of the certified check or money order and any transmittal letter to:

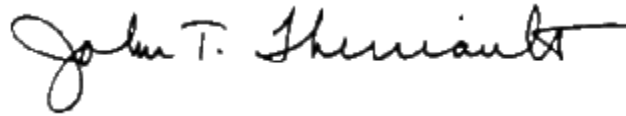
Richard A. Perry  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington St., Suite 1800  
Chicago, Illinois 60602

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. Geneva must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject 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 August 7, 2008, by a vote of 4-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board