

ILLINOIS POLLUTION CONTROL BOARD
April 12, 1979

ENVIRONMENTAL PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 77-276
)
C. J. ZIMMERMAN and ZIMCO)
ENTERPRISES, a Division of Zimco)
Metalfab, Inc., an Illinois)
corporation,)
)
Respondents.)

Mr. Reed Neuman, Assistant Attorney General, appeared on behalf of the Complainant;
Mr. Robert F. Kaucher, Kaucher, Collins and Ligman, appeared on behalf of the Respondents.

OPINION AND ORDER OF THE BOARD (by Mr. Young):

This matter comes before the Board upon a complaint filed by the Environmental Protection Agency against C. J. Zimmerman and Zimco Enterprises on October 25, 1977. The complaint alleged that in October, 1974, the Respondents constructed a sewer system in Highland, Illinois without a permit and caused or allowed the construction and operation of two separate sewer systems in May, 1975, without the necessary permits. The complaint charged that the Respondents, C. J. Zimmerman and Zimco Enterprises were in violation of Rules 951(a) and 952(a) of Chapter 3: Water Pollution Regulations and Section 12(b) of the Environmental Protection Act.

A hearing was held on February 27, 1979, at which time the parties submitted a Stipulation and Proposal for Settlement for Board approval in lieu of a full hearing. No testimony was given during the hearing.

The parties in this settlement stipulated that Zimco Enterprises was in violation of Rules 951(a) and 952(a) of Chapter 3 and Section 12(b) of the Act for the construction of a sewer system on or about October 11, 1974, in the Lakeland Addition of Highland and for the construction and operation of a sewer system in May, 1975, near 28th and Poplar Street in Highland. The parties further agree that the charges in paragraph 10 of the complaint for constructing

and operating a sewer system for the Hollyhock Apartments in Highland be dismissed and that C. J. Zimmerman be dismissed as a Respondent in this matter.

The City of Highland, Madison County, Illinois was placed on restricted status on February 29, 1969, by the Sanitary Water Board which prohibited further extensions and hook-ups to the City's sewer system until the treatment system was built to provide adequate capacity. In 1971, the Agency determined that the restricted status would be continued for the City's old treatment plant until a new sewage treatment plant was constructed to relieve severe overloading problems to the old plant. While the stipulation indicated that progress on the new sewage treatment plant continues, to date, the City of Highland remains on restricted status. (Stip. 3-5)

The agreement stated that the Agency denied the permit application of Zimco Enterprises on August 5, 1974, for the construction of the sewer system at 28th and Poplar Street. Subsequently, Zimco petitioned this Board for a variance in January, 1975. On May 28, 1975, the Board denied the variance request specifically citing the City of Highland's restricted status as reason for rejection. Since the filing of this complaint, the Respondent Zimco was compelled to seek and was granted a variance from Rule 962 of Chapter 3 in Zimco v. EPA, PCB 78-104 (Sept. 21, 1978) so that the sewer system near 28th and Poplar Street and in the Lakeland Addition could be made operational. (Stip. 4-6)

As a result of negotiations, the parties have agreed that it would be in the best interest of the public and the parties to settle this matter under the Board's Procedural Rule 331. The settlement in this matter provides that the Respondent Zimco will submit as-built plans by a registered professional engineer for the sewer systems at 28th and Poplar Street and in the Lakeland Addition on Pike Drive East and West in Highland. The Respondent has also agreed to obtain all necessary construction and operating permits in the future from the Agency as required by Board regulations and by the Act. (Stip. 7,9)

The settlement further provides that the Respondent Zimco Enterprises will pay a total fine of \$1,500.00 for the violations stipulated to in the settlement.

On the basis of the foregoing and the Stipulation and Proposal for Settlement entered into the record on March 1, 1979, the Board finds that the Respondent Zimco Enterprises is in violation of Rule 951(a) of Chapter 3 and Section 12(b) of the Act on or about October 11, 1974, for construction of a sewer system in the Lakeland Addition of Highland without a permit. The Board further finds Zimco Enterprises

in violation of Rules 951(a) and 952(a) of Chapter 3 and Section 12(b) of the Act for the construction and operation of a sewer system near 28th and Poplar Street in Highland in May, 1975. The Board will dismiss the allegations contained in paragraph 10 of the complaint and will also dismiss Respondent C. J. Zimmerman as party-respondent to this action.

The Board has considered the application of the requirements of Section 33(c) of the Act to the facts and circumstances contained herein and finds that the Stipulation and Proposal for Settlement to be acceptable under Procedural Rule 331. The Board further finds that \$1,500.00 is a sufficient penalty for the violations found herein.

This Opinion constitutes the Board's finding of fact and conclusion of law in this matter.

ORDER

1. Respondent, Zimco Enterprises, is found to have violated Rule 951(a) of Chapter 3: Water Pollution Regulations and Section 12(b) of the Environmental Protection Act on or about October 11, 1974, and Rules 951(a) and 952(a) of Chapter 3 and Section 12(b) of the Act in May, 1975, for constructing and operating sewer systems in Highland, Illinois without the necessary permits.

2. The Board will dismiss the charge in paragraph 10 of the complaint alleging violations for constructing and operating a sewer system without the necessary permits for the Hollyhock Apartments in Highland, Illinois.

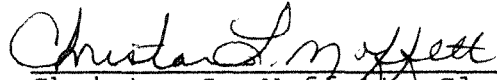
3. The Board will dismiss Respondent, C. J. Zimmerman, as party-respondent to this enforcement action.

4. Respondent, Zimco Enterprises, shall pay a penalty of \$1,500.00 within 35 days of this order. Payment shall be by certified check or money order payable to:

State of Illinois
Fiscal Services Division
Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 12th day of April, 1979, by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board