

ILLINOIS POLLUTION CONTROL BOARD
September 4, 1980

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-240
)
CITY OF WOOD DALE, a municipal)
corporation,)
)
Respondent.)

MR. WILLIAM BARZANO, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

BRADTKE & ZIMMERMANN, ATTORNEYS AT LAW (MR. JOHN J. ZIMMERMANN, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by N.E.Werner):

This matter comes before the Board on the August 30, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). The six-count Complaint alleged that the Respondent, the City of Wood Dale ("City"), operated its municipal sewage treatment plant (the "plant" or "facility") in such a manner as to: (1) fail to monitor five times per week, as required by its NPDES Permit, the effluent levels of biochemical oxygen demand, total suspended solids, and pH; (2) falsely report to the Agency that these specified contaminants were monitored five times per week; (3) fail to submit the necessary reports to the Agency of incidents of non-compliance with the permit requirements; (4) violate the biochemical oxygen demand, total suspended solids, and fecal coliform effluent limitations set in its NPDES Permit; (5) fail to monitor five times per week by composite sample the effluent levels of ammonia (as N); and (6) falsely report to the Agency that ammonia was to be monitored one time per week by grab sample in violation of its NPDES Permit, Rule 901 of Chapter 3: Water Pollution Control Regulations ("Chapter 3"), and Sections 12(a), 12(b) and 12(f) of the Illinois Environmental Protection Act ("Act").

After various discovery motions, continuances, and preliminary settlement attempts, a hearing was held on February 9, 1979. This hearing was recessed until March 9, 1979 to allow the parties additional time to continue their negotiations. At the hearing of March 9, 1979, the Hearing Officer indicated that the parties would probably submit the final signed Stipulation to the Board by April 16, 1979. However, no Stipulation was received.

On January 10, 1980, the Board entered an Order which mandated either prompt submission of the Stipulation or the scheduling of an additional hearing within 60 days. On February 8, 1980, the Agency filed a Motion for Reconsideration which asked the Board to reconsider its Order of January 10, 1980 and allow the parties an additional 60 days in which to hold a hearing. On February 19, 1980, the Agency filed a Motion to Defer Ruling which requested that the Board defer ruling on the Agency's Motion for Reconsideration until the March 6, 1980 Board meeting. On March 6, 1980, the Board granted the Agency's Motion for Reconsideration and ordered that the parties schedule and convene a hearing by May 9, 1980. A hearing was held on May 9, 1980.

On May 15, 1980, the Agency filed a Motion for an Extension of Time in which to file the Stipulation and Proposal for Settlement (i.e., the Agency requested 15 extra days in submitting the executed documents). On May 22, 1980, the Hearing Officer filed with the Board a letter which indicated that he granted the Agency's post-hearing motion requesting a 15-day extension of time to file the executed Stipulation, and the Hearing Officer stated that the Stipulation would be filed on, or before, June 5, 1980. On August 7, 1980, the Board entered an Order which attempted to expedite the filing of the signed Stipulation. On August 13, 1980, the parties filed their executed Stipulation and Proposal for Settlement.

The City of Wood Dale operates a sewage treatment plant, commonly known as the North Plant, in Du Page County, Illinois which discharges effluent into Salt Creek, a navigable Illinois waterway, pursuant to NPDES Permit No. IL 0020061. The parties have stipulated that one of the major conditions at the plant which resulted in the discharge of effluents in excess of levels prescribed in the Respondent's NPDES Permit was the accumulation of sludge in the plant's polishing lagoon. (Stip. 4). This sludge, which gradually accumulated in the lagoon, caused the polishing lagoon to become totally filled with sludge for an extended period of time.

The proposed settlement agreement provides that, in order to insure that adequate capacity (as determined by the City Engineer and subject to review and approval by the Agency) for the excess flow storm pump is made available, and to assure that the plant discharges an effectively treated effluent, the City will expeditiously clean the lagoon, remove the sludge, and dispose of the sludge in an environmentally acceptable manner. (Stip. 4; 7). During the time that the lagoon is being cleaned, the plant must meet specified effluent limits as set forth in the Stipulation. (Stip. 8). Additionally, various modifications may be made to the lagoon. (See: Exhibits A and B).

The parties have also stipulated that, in order to facilitate the upgrading of the Respondent's sewage treatment facility (while at the same time providing adequate treatment of existing wastewater), the Agency has issued a Construct Only Permit (Permit No. 1979-AC-6142) to the City which allows the construction of a twenty-one inch (21") bypass line at its plant. (Stip. 7).

The City has agreed to promptly submit a final plan for cleaning the existing polishing lagoon (including plans, and permit applications as required, for management of waste solids removed from the lagoon) and an application for a permit to operate the 21" bypass line. (Stip. 7).

Upon final approval of the plan and the permit application, the Agency will issue an Operating Permit for the 21" bypass line to allow the City to bypass the existing sludge-filled polishing lagoon at the plant and transport flow from secondary treatment directly to the chlorine contact tank during the cleaning of the lagoon. (Stip. 7).

Additionally, the City has agreed to: (1) begin an aggressive maintenance program to correct existing equipment deficiencies and prevent future breakdowns, and (2) coordinate the upgrading of its facility with the Agency's construction grant program. (Stip. 5-6; 10).

The settlement proposal also indicates that the City neither admits nor denies any of the allegations charged in the six-count Complaint. (Stip. 4). Although the parties have stipulated as to the details of the compliance plan and as to all other matters, they have left the amount of the penalty open (i.e., for resolution by the Board). The Agency notes that it had originally been willing to accept the proposal that the City clean a portion of the polishing lagoon, but the City has preferred to clean the entire pond at additional cost. (Stip. 10).

In evaluating this enforcement action and the proposed settlement agreement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act. The Board finds the stipulated agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Board finds that the Respondent, the City of Wood Dale, has violated Rule 901 of Chapter 3: Water Pollution Control Regulations and Sections 12(a), 12(b), and 12(f) of the Act. The Respondent is ordered to follow the agreed-upon compliance program which is delineated in the Stipulation. A penalty of \$500.00 is hereby assessed against the City of Wood Dale.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

It is the Order of the Illinois Pollution Control Board that:

1. The Respondent, the City of Wood Dale, has violated Rule 901 of Chapter 3: Water Pollution Control Regulations and Sections 12(a), 12(b), and 12(f) of the Illinois Environmental Protection Act.

2. Within 45 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay a penalty of \$500.00 which is to be sent to:

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

3. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on August 13, 1980, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 4th day of September, 1980 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board