



The parties have stipulated that: (1) the Village has limited capabilities for the treatment of its effluent introduced into the Kankakee River from its sewage treatment plant; (2) the plant sometimes operates above its rated capacity due to the growth of the area which it serves, thereby resulting in the discharge of effluents which exceed the limits set forth in NPDES Permit #IL0025275; (3) the Company, which operates the plant for the Village, will continue "to make their best effort to alleviate any adverse impact on the receiving stream...by utilizing sound and prudent plant management procedures...and by the application for and introduction of additional facilities and plant expansion;" and (4) the Respondents admit that, on March 22, 1981, the effluent discharged from their plant into the Kankakee River exceeded certain limits allowable under the NPDES Permit. (Stip. 1-2).

The proposed settlement agreement provides that: (1) the Respondents shall follow a specified compliance program to increase the monitoring of the sewage treatment plant effluent (including various water sampling, laboratory analysis, and notification procedures) until such time as the facility is expanded or altered to alleviate its capacity flow problems; (2) the Company shall pay a penalty not to exceed \$1,000, "any or all of which amount, as determined by the Pollution Control Board, shall be paid into the Wildlife and Fish Fund, or to local not-for-profit environmental groups...or to the State of Illinois, as the Board shall see fit;" (3) the Company shall pay \$2,500 "to reimburse Complainant for its costs and attorney's fees," and (4) the NIAA agrees to commence no further legal action against the Respondents for events occurring on, or before, the date of their agreement (i.e., February 5, 1982). (Stip. 2-4). The Board finds the settlement agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act and finds that the Respondents have violated Sections 12(a) and 12(b) of the Act. Since no fish kill is involved here and the environmental injury is to the general public, a penalty payment to the Wildlife and Fish Fund is inappropriate. There is no provision in the Act which would allow the Board to direct a penalty payment to a private environmental group. Accordingly, the Company will be ordered to pay a penalty of \$1,000 to the State of Illinois.

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

#### ORDER

1. The Respondents, the Kankakee Water Co., Inc. and the Village of Boubonnais, have violated Sections 12(a) and 12(b) of the Illinois Environmental Protection Act.

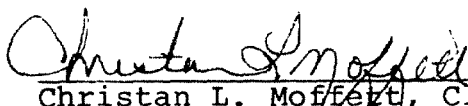
2. Within 30 days of the date of this Order, the Kankakee Water Co., Inc. shall, by certified check or money order payable to the State of Illinois, pay a penalty of \$1,000 which is to be sent to:

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

3. The Respondents shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on February 17, 1982, which is incorporated by reference as if fully set forth herein.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 13<sup>th</sup> day of April, 1982 by a vote of 4-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board