

ILLINOIS POLLUTION CONTROL BOARD
August 9, 1979

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-132
)
VILLAGE OF MILLSTADT, a municipal)
corporation, and TESTING,)
ANALYSIS & CONTROL, INC.,)
an Illinois corporation,)
)
Respondents.)

INTERIM ORDER OF THE BOARD (by Mr. Werner):


The Board, after careful evaluation of the proposed settlement agreement in light of Section 33(c) of the Illinois Environmental Protection Act and Procedural Rule 331, finds all terms and conditions of the Stipulation and Proposal for Settlement to be acceptable, with the exception of the proposed "suspended" penalty. The Board does not favor the concept of "suspended" penalties. (See: EPA v. Village of Ridgway, PCB 79-3, Interim Orders of June 22, 1979 and July 26, 1979; EPA v. Sundale Sewer Corporation, PCB 78-88 and PCB 78-225 Consolidated, Interim Order of July 12, 1979; and Dissenting Opinion of Chairman Jacob D. Dumelle on April 26, 1979 in EPA v. City of Georgetown, PCB 78-127).

A "suspended" penalty is entirely prospective in nature and implies a penalty for hypothetical violations which may, or may not, occur at some future date. The original Stipulation, agreed to by both parties, provided for a penalty in the case of any future violations, but set no penalty for past violations. Accordingly, the Board, on its own motion, hereby requests that the parties in this case submit, within 60 days, an Amended Stipulation and Proposal for Settlement.

IT IS SO ORDERED.

Mr. Young dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Order was adopted on the 9th day of August, 1979 by a vote of 3-1.



Christan L. Moffett, Clerk
Illinois Pollution Control Board