

ILLINOIS POLLUTION CONTROL BOARD
November 16, 1978

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-204
)
VILLAGE OF SAN JOSE,)
)
Respondent.)

MR. PATRICK J. CHESLEY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. DONALD K. BIRNER, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the July 28, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency") which alleged that the Village of San Jose discharged waste water from its public water supply system without an NPDES permit for point source discharges issued by the Agency from October 24, 1977 until July 28, 1978 in violation of Rule 901 and 902(e) of Chapter 3: Water Pollution Regulations and Section 12(f) of the Illinois Environmental Protection Act ("Act"). A hearing was held on October 10, 1978. The parties filed a Stipulation and Proposal for Settlement on October 18, 1978.

The Village of San Jose is an Illinois municipal corporation which operates a public water supply system in Mason County, Illinois. The stipulated facts indicate that, from October 24, 1977 through July 28, 1978, the Village of San Jose operated its public water supply system in such a manner as to cause or allow the discharge of waste water containing contaminants to flow into an unnamed tributary to Main Ditch, a navigable water and water of the State of Illinois, which is tributary to Crane Creek, which is tributary to the Illinois River, both of which are navigable waters and waters of the State of Illinois. (Stipulation p. 2). It is stipulated that at no time from October 24, 1977 to July 28, 1978 was the Village of San Jose issued nor did it possess an NPDES

permit for point source discharges issued by the Agency under Section 39(b) of the Act and Board's Water Pollution Rule 902(e) for the waste water discharged from its public water supply system. (Stipulation, p. 2-3). The stipulated facts reveal that the Respondent possessed an NPDES permit for waste water discharges from its sewage treatment plant. Accordingly, the Village of San Jose was under the mistaken assumption that the NPDES permit for its sewage treatment plant was sufficient to cover discharges from its public water supply system. For that reason, it did not apply for a separate NPDES permit for its public water supply system. (Stipulation, p. 3).

The Stipulation and Proposal for Settlement provides that the Village of San Jose agrees to apply for and obtain an NPDES permit from the Agency for its waste water discharge from its public water supply system and pay a stipulated penalty of \$100.00 . (Stipulation, p. 4).

In evaluating this enforcement action and proposed settlement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Illinois Environmental Protection Act. Incinerator, Inc. v. Illinois Pollution Control Board, 59 Ill. 2d 290, 319 N.E. 2d 794 (1974). In the present case, the character and degree of actual injury to the public is not known. However, the permit system is the heart of the regulatory program to protect the environment in Illinois. Such a program provides important information concerning the quantity and characteristics of any contaminants being discharged into the waters of the State. The Respondent's public water supply system clearly has social and economic value to the individuals in the Village of San Jose who utilize it. Moreover, the public water supply system of the Village of San Jose is suitable to the area in which it is located and there is no question of priority of location in the area involved. Additionally, it is both technically practicable and economically reasonable for the Village of San Jose to obtain an NPDES permit for the waste water discharge from its public water supply system.

Thus, on the basis of the record, the Board finds that, from October 24, 1977 until July 28, 1978, the Village of San Jose discharged waste water from its public water supply system without an NPDES permit for point source discharges issued by the Agency in violation of Rule 901 and 902(e) of Chapter 3: Water Pollution Regulations and Section 12(f) of the Illinois Environmental Protection Act. The Board hereby imposes the stipulated penalty of \$100.00 against the Respondent.

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 Village of San Jose has violated Rule 901 and 902(e) of Chapter 3: Water Pollution Regulations and Section 12(f) of the Illinois Environmental Protection Act from October 24, 1977 until July 28, 1978.

2. Within 45 days of the date of this Order, the Village of San Jose shall pay the stipulated penalty of \$100.00 , payment to be made by certified check or money order to:

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

3. The Village of San Jose shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed October 18, 1978, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 16th day of November, 1978 by a vote of 3-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board