

ILLINOIS POLLUTION CONTROL BOARD
July 20, 1978

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 vs.) PCB 77-282
)
 JOSEPH F. BOENTE SONS, INCORPORATED,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a complaint filed by the Environmental Protection Agency (Agency) on November 2, 1977. The complaint alleges that Respondent owns and operates the Sherwood Glen Campground located in the southeast quarter, Section 28, Township 10 North, Range 5 West, Third Principal Meridian, Montgomery County, Illinois; that at the Sherwood Glen Campground Respondent owns and operates a wastewater treatment system which treats the wastewater from the campground; that the wastewater treatment system drains into Shop Creek which is tributary to Shoal Creek, which is tributary to Lake Lou Yager and the Kaskaskia River; that since June 3, 1975 Respondent's wastewater treatment system was built in substantial deviation from the plans and specifications incorporated into its construction permit and is thus in violation of Section 12(b) of the Environmental Protection Act (Act); and that since June 3, 1975 and continuing to the date of filing the complaint, Respondent has operated its wastewater treatment system without a certified Class 4, Class 3, Class 2, or Class 1 treatment works operator in violation of Rule 1201 and of Section 12(a) of the Act. A hearing was held on June 13, 1978 at which a stipulated agreement was submitted for Board acceptance.

This agreement provides that Respondent owns and operates the campground in question. The facility has the capacity for approximately 60 to 70 motorized vehicles, tents or trailers at one time. The campground is only open during the summer months and usually an average of 10 to 20 trailer sites are used at any one time.

On June 4, 1974 the Agency issued to Boente a permit for construction and operation of a wastewater treatment plant at Sherwood Glen Campground. Some time after the issuance of the permit Respondent caused or allowed the construction of the wastewater treatment system and has operated it continuously

from that date to the present. The wastewater treatment discharge drains into Shop Creek and flows through two tributaries into the Kaskaskia River.

Standard condition No. 1 of Respondent's permit states that no deviations from the approval plan are allowed unless revisions are submitted to and approved by the Agency first. Respondent's wastewater treatment plant contains several deviations from the permitted plan including the following:

- (1) A non-recirculating intermittent sand filter was constructed instead of the permitted recirculating intermittent sand filter.
- (2) A single sand filter bed 27 feet by 65 feet was constructed instead of the permitted two sand filter beds, each to be 20 feet by 25 feet.
- (3) Sand in the filter beds has an effective size of .24 millimeters, instead of the permitted size of .6 millimeters.
- (4) Plastic pipes were installed in the filter beds instead of the permitted distribution troughs.
- (5) Chlorination facilities were not installed in accordance with the Permit.
- (6) The filter bed was constructed contrary to the Permit in that it has no sidewall or freeboard and has large gaps in the wall.

No revised plans were ever submitted to the Agency and no supplemental permit was ever issued. It is the Agency's contention that the treatment system as constructed is incapable of satisfactory operation at design loadings.

The treatment works is designed to serve a population equivalent of less than 10,000. By the Agency Procedures for the Certification of Operators of Wastewater Treatment Works, a certified Class 4, Class 3, Class 2, or Class 1 treatment works operator is required for this treatment system. Respondent's system was operated without the required operator.

The Agency inspected Respondent's treatment system on at least 10 occasions and notified Respondent of deficiencies. A compliance conference was held on November 25, 1975. Compliance has never been achieved to the satisfaction of the Agency. The parties agreed that the measures to be taken were technically practicable and economically reasonable.

At present the campground is closed to the public and thus no wastewater is being discharged by the treatment plant.

For the purposes of settlement Respondent admits the violations of Counts I and II of the complaint.

The parties agree that the site is suitably located and that the treatment facility could be constructed and operated without polluting the waters of the State. It was agreed that the facility has significant social and economic value but the continued failure to comply with the Act and the applicable regulations constitutes a potential to injure or interfere with the protection of property and general welfare of the people.

Respondent agrees to close the campground to all uses and not to reopen the site unless Respondent submits as-built plans and makes modifications to the Agency's satisfaction with all the proper permits. Respondent agrees to operate with the proper permits and a properly certified operator will be employed.

Considering the nature of conditions at the subject site, the size of Respondent's operations, past attempts to achieve compliance and other agreed to control arrangements, the parties agreed to a \$500.00 penalty.

The Board finds the stipulated agreement acceptable under Procedural Rule 331. The stipulation sufficiently considers the factors of Section 33(c) of the Act. The Board finds Respondent in violation of Section 12(b) of the Act and of Rule 1201 of Chapter 3 and Section 12(a) of the Act. A penalty of \$500.00 is assessed.

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

ORDER

It is the order of the Pollution Control Board that:

- (1) The parties shall comply with the stipulated agreement which is incorporated by reference as if fully set forth herein.
- (2) Joseph F. Boente Sons, Inc. is found to be in violation of Rule 1201 of Chapter 3: Water Pollution Regulations and Section 12(a) of the Act and Section 12(b) of the Act.
- (3) Respondent shall pay a penalty of \$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
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 20th day of July, 1978 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board