

ILLINOIS POLLUTION CONTROL BOARD
December 8, 1977

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 77-105
)
 MORTELL MANAGEMENT COMPANY,)
)
 Respondent.)

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

This case comes before the Board on a complaint alleging violation of Rule 1201 of Chapter 3: Water Pollution of the Board's Rules and Regulations and Section 12(a) of the Act. Specifically Respondent has been accused of operating a waste water treatment works without a certified operator. A hearing was held on July 28, 1977 at the Council Chambers in Crete, Illinois.

Respondent has owned and operated the Balmoral Woods Inn in Crete, Illinois since June, 1975 (R.5). The Inn has its own waste water treatment plant which had not been under the supervision of a certified operator from June, 1975 until the hearing date. Mr. Bennett stated on behalf of Complainant that his office had no record of a certified operator at this facility (R.16). These facts are uncontroverted in the record and are sufficient for the Board to find that Respondent has violated Rule 1201 of Chapter 3: Water Pollution and Section 12(a) of the Act.

The Board may impose penalties for violations of its Regulations whenever necessary to aid in the enforcement of the Act. Respondent's conduct in this case shows a disregard for the integrity of the Act and the Board's Rules. A penalty will insure that this disregard does not go unnoticed and that others may be warned against similar designs.

The subject facility was operated by a man who had some experience in operating sewage treatment facilities and had at one time applied to take a test to be certified. Although he was given permission to take the examination, he never did (R.19). The operator, Mr. Gerlock, received some periodic advice from a consulting engineer named Jacobs (R.53,61,68,102) on how to operate this plant. Mr. Jacobs was not on the Respondent's

payroll as Mr. Gerlock was, but he was compensated for his advice by free use of Respondent's golf course, swimming pool and exercise facilities (R.63). Although he was involved in the supervision of this facility, Mr. Jacobs was not the operator. Mr. Gerlock had been the operator since 1970 and he was the one spending 10-12 hours per week looking after the plant (R.28,29).

One of the duties of an operator is the submission of operating reports to the Agency. Mr. Gerlock had been sending in reports from June, 1975 until March, 1977 under his own signature (R.43). In April, 1977 the procedure changed. Mr. Jacobs signed a blank operating report which was copied with his signature so that Mr. Gerlock could fill in the reports and submit them under the signature of a man who was believed to be a certified operator (R.114,118). The scheme failed when it was discovered that Mr. Jacobs had lost his certification (R.64). Seven of these misleading reports were submitted (R.119). There was some disagreement in the record as to whether this misuse of Mr. Jacobs' signature was authorized by him, but the disagreement is unimportant. The Respondent in this case is Mortell Management Company which will be held responsible for the misconduct perpetrated here.

Instead of hiring a certified operator to supervise the day to day operation of its plant, Respondent chose to leave Mr. Gerlock in that position. This resulted in cost savings to Respondent which are not quantified in the record but are real nonetheless. After receiving warnings from the Agency (Exhibits 1 and 2), the only change in Respondent's procedures was the deception described above. After the hearing in this case had been completed, Respondent attempted to augment the record with instances of its recent good faith attempts to comply with Rule 1201. This additional information will not be considered by the Board since it adds nothing of merit. If Respondent has in fact remedied the problem, it did not do so until it had been prosecuted and its scheme had been uncovered.

A penalty of \$1,000 will be assessed against Respondent to aid in the enforcement of the Act.

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

Mr. Werner dissents.

ORDER

1. Respondent shall cease and desist immediately from any violations of Rule 1201 of Chapter 3: Water Pollution of the Board's Rules and Regulations.

2. Within 30 days of the date of this Order Respondent shall forward the sum of \$1,000 by certified check or money order payable to the State of Illinois to:

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

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 8th day of December, 1977 by a vote of 4-1.

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