

ILLINOIS POLLUTION CONTROL BOARD
September 15, 1977

PEOPLE OF THE STATE OF ILLINOIS and)	
ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Complainants,)	
)	
v.)	PCB 76-288
)	
VILLAGE OF LAKE ZURICH, an Illinois)	
municipal corporation,)	
)	
Respondent.)	

Ms. Anne Markey, Assistant Attorney General, appeared on behalf of Complainants.
Mr. Harvey M. Sheldon, Plunkett, Nisen, Elliott & Meier, appeared on behalf of Respondent.
Mr. R. Ford Dallmeyer, Tenney & Bentley, appeared on behalf of the Village of North Barrington and the other Intervenors.

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

This matter comes before the Board on a Complaint filed on November 10, 1976, by the People of the State of Illinois against the Village of Lake Zurich. The Respondent owns and operates the Northwest treatment plant (treatment works) which discharges its effluent into a tributary of Flint Creek that flows through the Village of North Barrington and into the Fox River.

The Complaint alleged violations of Section 12(a) of the Environmental Protection Act (Act) and specific standards of the Pollution Control Board Rules and Regulations, Chapter 3: Water Pollution (Rules). In particular, the Complaint alleged violations of the effluent standards for phosphorus in Rule 407(b), for BOD₅ and suspended solids in Rule 404(f), and for fecal coliform in Rule 405 of the Rules, and the water quality standards for dissolved oxygen in Rule 203(d), Rule 203(f) of the Rules.

The Complaint was amended on December 14, 1976, to add the Environmental Protection Agency (Agency) as Complainant.

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On May 20, 1977, the Village of North Barrington filed a Petition for Intervention with the Board. North Barrington claimed that it would be adversely affected by a final Board Order because it was located downstream from the Northwest treatment plant. The Petition was amended on two different occasions adding interested individuals who owned property along the affected tributary.

On July 21, 1977, the Hearing Officer denied the Petition but agreed to reconsider it at the hearing.

The hearing was held in Lake Zurich on July 26, 1977. The Hearing Officer overruled his earlier Order against North Barrington and granted the Petition with certain limitations. The Intervenor were named as parties to the Amended Complaint and the Proposal for Settlement, but they were not permitted to offer testimony at the hearing.

Thereafter, the parties presented their Stipulation of Facts and Proposal for Settlement which was filed with the Board on August 1, 1977, and amended on August 4, 1977.

The parties' Stipulated Facts present sufficient admissions (see page 8, 9, par. 18, 19 of the Stipulation and Proposal for Settlement) to support the finding that discharges from the Northwest treatment works were in violation of Section 12(a) of the Act and effluent and water quality standards of the Rules:

- Phosphorus, Rule 407(b);
- BOD₅ and Suspended Solids, Rule 404(f);
- Fecal Coliform, Rule 405;
- Dissolved Oxygen, Rule 203(d); and
- Ammonia Nitrogen (as N), Rule 203(f).

PROPOSAL FOR SETTLEMENT

The Respondent has agreed to install automatic chemical feed equipment within four months of the Board Order and determine its optimum chemical feed point and feed rate within 75 days after installation. They have further agreed to employ a qualified laboratory assistant and to hire two full-time operators who are certified by the Agency. The Respondent will also prepare composite flow diagrams of "as built" conditions for their two treatment works as specified in the compliance plan.

The Settlement further requires Respondent to plug any bypasses not specified by the Illinois and U.S. EPA permits. Bypassing of tertiary treatment shall be prohibited except during emergencies or when making repairs.

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Respondent agrees to permit inspection of the Northwest treatment plant by authorized representatives of the Attorney General and qualified members of the intervening parties at any time during daytime business hours.

Respondent further agrees to make any modification in tertiary filter and backwash pond flow system which would improve the efficiency of the treatment works.

While this compliance plan is in operation, Respondent agrees that it will send to the Agency and the Attorney General all NPDES monitoring reports, engineering plans, monthly progress reports, periodic discharge reports, and reports of permit violations as specifically delineated in the Proposed Settlement.

During this implementation period, the Northwest treatment works must comply with interim standards as set forth in the Proposed Settlement. These interim standards will, however, expire at the end of nine months and Respondent will be required to meet then-existing effluent and water quality standards in the Rules, or obtain a variance therefrom.

The People and the Agency recommend that no penalty be assessed against the Village of Lake Zurich. The Board has found it necessary to impose monetary penalties on public bodies to deter violations of the Act and the Rules. Springfield v. EPA, PCB 70-55, 1 PCB 379 and EPA v. Village of Biggsville, PCB 77-29 (June 9, 1977). However, the Board has also held that public funds are better spent on meaningful pollution control measures than on penalties for past transgressions. EPA v. Louis Rokis, PCB 74-215, 18 PCB 512. In this matter, the Respondent has shown a willingness to bring the Northwest treatment plant into compliance with the effluent and water quality standards of the Rules. The Board, therefore, accepts the recommendation of the People and the Agency and will impose no penalty.

The Board finds the Stipulation and Proposal for Settlement in compliance with the requirements of Procedural Rule 331. The Board also finds the terms of the Settlement to be acceptable and will require that the parties adhere to all provisions therein.

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

ORDER

1. Respondent, Village of Lake Zurich, is hereby found to have discharged contaminants into the environment of Illinois in

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violation of Rules 203(d), 203(f), 404(f), 405 and 407(b) of Chapter 3, and Section 12(a) of the Environmental Protection Act.

2. The Respondent shall adhere to all provisions of the Settlement Proposal, which is hereby incorporated by reference as if fully set forth herein.

IT IS SO ORDERED.

Mr. Jacob D. Dumelle concurred.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 15th day of September, 1977 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board