

ILLINOIS POLLUTION CONTROL BOARD

July 18, 1974

ENVIRONMENTAL PROTECTION AGENCY,)	
Complainant,)	
)	
v.)	PCB 74-136
)	
GOFFREY HUGHES, d/b/a Goffrey Hughes Rental,)	
Respondent)	

Delbert Haschemeyer, Assistant Attorney General, in behalf of Complainant.
 John G. Gilbert, Attorney for Respondent.

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

The Respondent owns and operates a rental business as Goffrey Hughes in Crab Orchard Estates in Williamson County, Illinois. Crab Orchard Estates consists of various small wooden dwellings, trailers, and miscellaneous buildings intended for occupancy by more than 15 people. In the conduct of this rental business, Respondent owns and operates a sewage treatment facility (facility) consisting of a common septic tank system. This facility is located proximate to and discharges into an intermittent, unnamed stream tributary to Crab Orchard Creek (a/k/a Crab Orchard Lake) which, in turn, is tributary to the Big Muddy River.

On April 12, 1974, the Environmental Protection Agency (Agency) filed a Complaint which included a long list of alleged violations under each of two Counts, I and II. Count I listed alleged violations of the Environmental Protection Act (Act) and the Rules and Regulations of the Illinois Sanitary Water Board (SWB-14) from on or before July 1, 1970, through April 15, 1972. Count II listed alleged violations of the Act and the Illinois Water Pollution Regulations, Chapter 3, (Chapter 3) from April 16, 1972, through the date of filing this Complaint.

COUNT I

From July 1, 1970, through April 15, 1972 - including certain specified dates in October 1970, and July, August, and September 1971 - Respondent allegedly violated Sections 12(a) and (d) of the Act and Rules 1.03(a), (b), (c), and (d) and 1.08-10(b)(1), (2), and (3) of SWB-14. Section 12(a) of the Act was allegedly violated in that Respondent caused or allowed septic contaminants to be discharged into an intermittent, unnamed tributary to Crab Orchard Creek (tributary) causing water pollution and violated regulations of the Board. Such discharges created a water pollution hazard in violation of Section 12(d) of the Act. Respondent was alleged to have discharged settleable solids or sludge deposits into the

tributary in violation of 1.03(a) of SWB-14. Respondent was charged to have violated 1.03(b) of SWB-14 by depositing septic contaminants into the same unnamed tributary. Harmful or toxic septic discharges and septic discharges creating a nuisance were deposited by Respondent in violation of 1.03(c) and (d) of SWB-14. Respondent allegedly failed to remove settleable solids, failed to remove color, odor, and turbidity to below obvious levels, and failed to remove certain contaminants at its sewage treatment facility, all in violation of Rule 1.08-10(b)(1), (2), and (3) of SWB-14.

COUNT II

From April 16, 1972, through April 12, 1974 - including certain named dates in September and October, 1972, and August, 1973 - Respondent allegedly violated Sections 12(a), (b), and (d) of the Act and Rules 203(a), (d), (g), and (f) and Rules 402, 403, 404(a), 405, 501, 903(a), and 1002(a) of Chapter 3. Section 12(a) of the Act was allegedly violated in that Respondent caused or allowed contaminants to be discharged into an intermittent, unnamed tributary to Crab Orchard Creek causing water pollution and violating the Board regulations in Chapter 3, as indicated below. Respondent allegedly operated its sewage treatment facility without a permit in violation of Section 12(b) of the Act. Discharging into the unnamed tributary created a water pollution hazard in violation of Section 12(d) of the Act. Respondent was said to have violated Rules 203(a) and 402 of Chapter 3 by allowing various contaminants, including unnatural sludge and bottom deposits, to be present in the tributary. Rules 203(d) and 402 were violated because Respondent allowed dissolved oxygen in the unnamed tributary to fall below 5.0 mg/l. Fecal coliforms exceeded 400/100 ml over a 30-day period in the tributary, in violation of 203(g) of Chapter 3. High coliform counts also violated Rule 405. Excessive ammonia concentration in the unnamed tributary violated Rule 203(f) of Chapter 3. Rule 403 was violated in that Respondent operated its sewage treatment facility so as to discharge effluents containing obvious color, odor, turbidity, and other contaminants. The BOD levels in sewage waste exceeded 30 mg/l in violation of Rule 404(a) of Chapter 3. Failure of Respondent to provide operating reports required of all persons discharging effluents into the unnamed tributary violated Rule 501(a) of Chapter 3. Operating the treatment facility without a permit violated Rule 903(a) of Chapter 3. A violation of Rule 1002(a) was premised on a failure to file a project completion schedule for the sewage treatment facility.

Answers to the Complaint were received by the Board on May 1, 1974. In these Answers the Respondent denied the allegations in paragraphs 5 through 14 of Count I and in paragraphs 5 through 17 in Count II.

A hearing concerning this case was held on May 29, 1974, in Marion, Illinois. During this hearing the Complainant and Respondent submitted Joint Exhibit No. 1, which included Reasons for Settlement, a Fact Stipulation, and Proposed Orders. Agency Exhibit No. 2 was also submitted, which is an application for a permit to construct new sewage treatment facilities (Permit #1970-GA-927 issued December 17, 1970) and detailed specifications (prepared by R.A. Nack and Associates - Engineers) of the pollution control equipment that Mr. Hughes had practically completed installing by the date of the hearing (R. 8, 9). No persons other than the parties in this case attended the hearing.

The Reasons For Settlement indicate that the parties believe (a) the Fact Situation and Proposed Order (Joint Exhibit No. 1) represents a fair and expeditious solution to a pollution problem that dates back to at least 1969 and (b) the proposed penalty of \$750.00 to be a fair penalty when balancing the delay in the installation of the improved treatment facilities with the age (70 years) of the Respondent and his reliance on rental property as a source of income.

The Fact Stipulation includes Agency Group Exhibit 1 (incorporated by reference), which consists of 25 documents (48 pages) from 1960 to 1973 that report observations of Agency investigations, laboratory analyses of effluent from the subject facility and receiving stream indicating pollution, photographs and drawings of the subject property, and correspondence between the Agency, Mr. Hughes, and other interested parties. If a full hearing had been held in this matter, Mr. Hughes would have testified that the delay in the installation of the treatment facilities was due in part to his hope of the formation of a sewage district to construct and operate an area-wide sewage treatment facility, as described in Respondent's Exhibit 1 (incorporated by reference), being an affidavit by Mr. Archie Griffin, an officer of the Lakeside Water District in 1970. Mr. Hughes would have also testified that the delay in the installation of treatment facilities was due in part to the difficulty of obtaining competent contractors to do the work, as described in Respondent's Exhibit 2 (incorporated by reference), being a letter from Mr. C.A. Skelcher. On or about April 15, 1974, work commenced on treatment facilities. Said treatment facilities are described more particularly in Respondent's Exhibit 3, being Permit #1970-GA-927, issued to the Respondent by the Agency on December 17, 1970.

Information in Agency Group Exhibit 1 adequately documents that Respondent's facility has caused water pollution since at least 1971 and that Mr. Hughes has been slow in correcting this situation. However, there are mitigating circumstances which are listed in the Fact Stipulation. Also the new sewage treatment facility, which was nearly completely installed by the date of the hearing and will be in full operation in June, 1974 (R. 9, 10), will control the pollution and solve this problem. On the basis of the information presented, the Board accepts the proposed settle-

ment and will write our Order accordingly.

This Opinion constitutes the findings of fact and conclusions of law of the Board.

ORDER

IT IS THE ORDER of the Illinois Pollution Control Board that:

1. Respondent, Goffrey Hughes, d/b/a Goffrey Hughes Rental, shall cease and desist the violations as alleged by installing and properly operating the new sewage treatment facilities described in Agency Exhibit No. 2. Said facilities are to be completed and in full operation on or before July 1, 1974.

2. Respondent, Goffrey Hughes, d/b/a Goffrey Hughes Rental, shall pay to the State of Illinois the sum of \$750.00 within thirty-five (35) days from the date of this Order. Penalty payment by certified check or money order, payable to the State of Illinois, shall be made to Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

3. Respondent, Goffrey Hughes, d/b/a Goffrey Hughes Rental, shall submit monthly reports to the Agency as required by Rule 501 of Chapter 3, Water Pollution Regulations of Illinois.

4. Respondent, Goffrey Hughes, d/b/a Goffrey Hughes Rental, shall provide a properly certified treatment plant operator as soon as possible, in accordance with Part XII of Chapter 3, Water Pollution Regulations of Illinois; or no later than September 15, 1974, engage a certified treatment plant operator as a consultant to insure that Respondent's sewage treatment facility is operated properly and meets established standards. If a consultant is used, Respondent shall report the consultant's name and address to the Agency.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 18th day of July, 1974, by a vote of 5 to 0.


Christan L. Moffett
Christan L. Moffett, Clerk