

ILLINOIS POLLUTION CONTROL BOARD
January 10, 1985

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 84-110
)
DAVID BAUMANN, d/b/a Lake)
Suzanne Mobile Acres,)
)
Respondent.)

MR. ALLEN SAMELSON, ASSISTANT ATTORNEY GENERAL, APPEARED ON
BEHALF OF THE COMPLAINANT.

JENNINGS, FLYNN & GUYMON (MR. PATRICK M. FLYNN, OF COUNSEL)
APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on a July 31, 1984 Complaint filed by the Illinois Environmental Protection Agency (Agency) which alleged that, intermittently, from on or before February, 1979 until July 31, 1984, the Respondent discharged effluent from the South Lagoon and from the North Lagoon of the wastewater treatment lagoon system serving his mobile home park without authorization in an NPDES Permit in violation of 35 Ill. Adm. Code 309.102 and Section 12(f) of the Illinois Environmental Protection Act (Act).

A hearing was held on October 26, 1984 at which time the parties summarized their proposed settlement agreement and incorporated a properly signed copy of Stipulation and Proposal for Settlement into the record.

The Respondent, Mr. David Baumann (Baumann), owns and operates a mobile home park called Lake Suzanne Mobile Acres (Mobile Acres) which is located on Rural Route 1, 79 Main Street, in O'Fallon, St. Clair County, Illinois. Baumann also owns and operates a wastewater treatment lagoon system which serves the residents of his mobile home park. There are three lagoons that are part of the Respondent's wastewater treatment system: (1) the South Lagoon, which was constructed under Sanitary Water Board Permit #1956-404 and has a design surface area of 0.723 acres, receives wastewater from 44 mobile home spaces in Mobile Acres, one eight-unit apartment building, and approximately 15 or more homes; (2) the North Lagoon, which was constructed without an Agency permit, has a surface area of 0.459 acres and receives wastewater from about 30 mobile home spaces in Mobile Acres; and (3) the Three-Cell Lagoon, constructed under Sanitary Water Board

Permit #1966-GA-611, receives wastewater from about 30 mobile home spaces in Mobile Acres. These three lagoons each discharge effluent into the Rocky Spring Branch which is tributary to Engle Creek, Silver Creek, and the Kaskaskia River, all navigable Illinois waters. (Stip. 3-4).

The Respondent has been authorized to discharge "contaminants", as that term is defined in Section 3(d) of the Act, to the Rocky Spring Branch pursuant to NPDES Permit No. IL0045128 issued by the Administrator of the United States Environmental Protection Agency (USEPA) on November 5, 1976, which contained certain interim limitations for such discharges which terminated on June 30, 1977. (Stip. 4-5).

On August 15, 1978, the Respondent applied for a renewal of the NPDES Permit for the Three-Cell Lagoon. However, the Respondent's NPDES Permit application made no provisions for any discharges from the South Lagoon or the North Lagoon. (Stip. 5). Almost four years later, on June 18, 1982, the Respondent submitted a permit application to the Agency proposing to divert wastewater from 60 mobile home units from the South Lagoon and North Lagoon to the Three-Cell Lagoon and, in addition, proposing to construct spray irrigation. On September 8, 1982, the Agency issued Permit 1982-AB-0662 which authorized the requested diversion plan and spray irrigation activities. (Stip. 5). Nonetheless, it is stipulated that the Respondent failed to implement the provisions of Permit 1982-AB-0662 and thereby continued to cause or allow discharges from the South Lagoon and North Lagoon without the requisite authorization of an NPDES Permit. (Stip. 5).

Additionally, the parties have stipulated that, during the time period beginning on, or before, February, 1979 and continuing intermittently up to the present time, the Respondent has discharged effluent from both the South Lagoon and the North Lagoon without authorization of his NPDES Permit in violation of 35 Ill. Adm. Code 309.102 and Section 12(f) of the Act. Since February, 1979, Respondent Baumann has submitted discharge monitoring reports to the Agency containing effluent analyses pertaining to the discharge history of the South Lagoon, North Lagoon, and Three-Cell Lagoon. (See: Exhibit A of the Stipulation). Recommended interim effluent discharge limitations have been developed by the Agency based on the discharge monitoring reports which have been submitted by the Respondent. (See: Exhibit B of the Stipulation).

The proposed settlement agreement provides that the Respondent admits the violations alleged in the Complaint and agrees to: (1) cease and desist from further violations "enabled, in part, by the construction, operation and maintenance of facilities for spray irrigation and the diversion of sixty apartment units from the North and South Lagoons to the Three-Cell Lagoon"; (2) operate and properly maintain the North Lagoon, South Lagoon, and Three-Cell Lagoon by controlling the heavy growth of duckweed, other weeds, briars, trees, and other

brush on the banks and by minimizing the gray color and septic odors of the waters until the lagoons' systems are retired (i.e., when the Shiloh Valley Sanitary District interceptor becomes operational which is anticipated to be about October of 1985); (3) provide the best possible operation and maintenance of its wastewater treatment system to produce the best effluent possible for the existing facilities; (4) submit the necessary discharge monitoring reports to the Agency in a timely fashion properly filled out by a certified operator on a month-to-month basis; (5) provide proper operation and maintenance for the three lagoons and insure that there is no downstream impact because of reduced loadings to the South Lagoon and the North Lagoon; and (6) pay a stipulated penalty of \$1,000.00. (Stip. 7-10).

Additionally, the parties have stipulated that the settlement proposal is contingent "upon the condition precedent of the Board issuing an Order to the Agency directing the latter to issue an NPDES permit to Respondent David K. Baumann, d/b/a Lake Suzanne Mobile Acres, which Respondent agrees to accept and implement, for discharge from the North and South Lagoons with interim effluent limitations as may be reasonably achieved through application of the best practicable operation and maintenance practices in the existing facilities which the lagoons are capable of meeting until the lagoons are retired and the Shiloh Valley Sanitary District interceptor becomes operational (which is presently scheduled in or about October, 1985)." (Stip. 9; See: Exhibit B in which the proposed interim effluent limitations are set forth).

In evaluating this enforcement action and proposed settlement agreement, 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 and finds the settlement agreement generally acceptable under 35 Ill. Adm. Code 103.180. The previously mentioned "condition precedent" is acceptable to the Board and will be included in the Board's Order.

The Respondent is hereby found to have violated 35 Ill. Adm. Code 309.102 and Section 12(f) of the Act and will be ordered to cease and desist from further violations, comply with the terms and conditions of the proposed settlement agreement, and pay the stipulated penalty of \$1,000.00.

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 Respondent, David Baumann, d/b/a Lake Suzanne Mobile Acres, has violated 35 Ill. Adm. Code 309.102 and Section 12(f) of the Illinois Environmental Protection Act.

2. The Respondent shall cease and desist from further violations.

3. Within 30 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$1,000.00 which is to be sent to:

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

4. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on November 21, 1984, which is incorporated by reference as if fully set forth herein.

5. The Agency is hereby ordered to issue an NPDES Permit to the Respondent within 30 days of the date of this Order which will allow discharges from the South Lagoon and North Lagoon with interim effluent limitations as follows:

SOUTH LAGOON

002	<u>BOD (mg/1)</u>	<u>SS (mg/1)</u>
	65	60

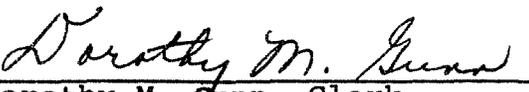
NORTH LAGOON

003	<u>BOD (mg/1)</u>	<u>SS (mg/1)</u>
	45	65

These interim effluent limitations shall be maintained until the lagoons are retired and the Shiloh Valley Sanitary District interceptor becomes operational (which is presently scheduled in, or about, October, 1985).

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 10th day of January, 1985 by a vote of 5-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board