

ILLINOIS POLLUTION CONTROL BOARD

October 9, 1975

PEOPLE OF THE STATE OF ILLINOIS)
)
 Complainant,)
)
)
 vs.)
)
)
EARL E. CAZEL, d/b/a SENECA WILDLIFE) PCB 75-87
MOBILE HOME PARK,)
)
 Respondent.)

JOAN WING, Assistant Attorney General for the Complainant
LAWRENCE BAXTER, Attorney for Respondent

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

The Environmental Protection Agency alleges that Earl Cazal, d/b/a Seneca Wildlife Mobile Home Park operated a septic system without an operating permit in violation of Rule 903(c)(3) of the Illinois Water Pollution Control Regulations and Section 12(a) of the Environmental Protection Act. A public hearing was held on June 19, 1975.

Before resolving the substantive issues of this case one procedural matter must be discussed. The Complaint alleges a continuing violation of Rule 903(c)(3) and Section 12(a) from June 30, 1974 to February 21, 1975, the date of filing of Complaint. The Board made certain amendments to its Water Pollution Control Regulations effective October 11, 1974. In these changes former Rule 903 (operating permits) was modified and redesignated as Rule 953. New Rule 903 does not deal with any matter relating to the instant proceeding. While the Agency could have alleged a violation of Rule 903(c)(3) from June 30, 1974 through October 10, 1974 and Rule 953 from October 11, 1974 to February 21, 1975, it failed to do so. Therefore, the Board will consider evidence bearing on the alleged violations of Rule 903(c)(3) only for the period June 30, 1974 through October 10, 1974.

Cazal began planning the 7 1/2 acre mobile home facility in 1971. An engineering firm was employed to develop the facility and secure permits, including any permits required from the Agency.

A permit application detailing use of a sand filter system for sewage treatment was submitted to the Agency in December 1971 (R. 23). Finding a number of deficiencies in the application, the Agency denied the permit. After the permit was denied Cazal decided to abandon the sand filter system and allow the engineering firm to decide whether it was necessary to obtain a permit for the new system (R. 40, 53).

Ten mobile home pads were constructed in late 1971. The first tenant moved into the facility that same year. In order to handle the sewage disposal requirements, 1,000 gallon concrete septic tanks were installed. Each septic tank handles sewage waste for two trailer pads. From the septic tanks the sewage flows through a 10' plastic pipe to a distribution box and then to an 80' x 24' filtration field. Each filtration field consists of 2" gravel covering the plastic pipes, three or four bales of straw and a final cover of 8" of dirt. One filtration field is provided for each septic tank.

Within one year after the facility was first occupied, Respondent was operating five septic tanks. Occupancy has increased to the point that 12 septic tanks are now in operation for 23 trailer pads. A total of 18 trailer pads are actually occupied serving 48 people. Flow to the septic tanks consists entirely of human related waste (R. 18). Permit approval was obtained from the Illinois Department of Public Health (R. 28). (That permit has now been revoked for reasons unexplained but purportedly not connected with the instant issue.)

In defense of his failure to secure the permit, Cazal testified that the engineering firm had told him no permit was required after the sand filter system was abandoned. Carter Sarver, a partner in the engineering firm, substantiated Cazal's testimony stating he had talked to both the Agency and the Department of Public Health by telephone. Sarver testified that the Agency had told him to "go to Public Health" (R. 46).

After receiving the Complaint, Cazal instructed the engineering firm to submit another permit application to the Agency. On July 31, 1975 attorney for Respondent forwarded to the Hearing Officer a copy of an Agency permit issued to Cazal on July 18, 1975. It is obvious from the permit that Cazal now intends to upgrade the wastewater treatment works at the trailer park (e.g. a duplex lift station with two 100 gpm pumps, chlorination facilities, baffled chlorine contact tank, etc.).

Cazal testified he has received no complaints about the septic system operation from neighbors. In the only reported operational difficulty, sewage from one filtration field came to the surface allegedly due to an abundance of washing machine effluent from two trailers. Cazal apparently solved this problem by enlarging the filtration field and adding more gravel.

Former Rule 903(c)(3) states that an operating permit is required by June 30, 1974 for "treatment works receiving wastewater with a population equivalent of under 10,000 with at least 60% of the loading being sewage." Former Rule 903(b) states "operating permits are not required for treatment works and wastewater sources that are designed and intended to serve a single building and eventually treat or discharge the sewage of 15 or less persons".

In order to qualify for an exemption under former Rule 903(b), Respondent is required to meet two conditions. The treatment works must serve a single building and treat or discharge the sewage of 15 or less persons. Although each septic tank receives sewage of "15 or less persons", Respondent fails to meet the "single building" requirement. Each treatment works serves two buildings.

Respondent argues that if the Board concurs in Agency reasoning in this matter, all rural Illinois towns now using septic tanks "for each residence" are in violation of the law. This argument leads us to believe that Respondent has looked past the "single building" criteria to the "15 persons" criteria. The Regulation does not apply to each residence.

The record shows that Respondent was given incorrect permit information by the engineering firm. This information, purportedly based upon some form of communication with the Agency, is not substantiated in the record. This mitigates penalty somewhat, as does the fact that Respondent finally did obtain a permit from the Agency.

It is the finding of the Pollution Control Board that Respondent did fail to secure a required operating permit in violation of Rule 903(c)(3) and Section 12(a). A monetary penalty in the amount of \$100 is appropriate.

ORDER

It is the Order of the Pollution Control Board that Earl E. Cazal, d/b/a Seneca Wildlife Mobile Home Park, shall pay to the State of Illinois by November 15, 1975 the sum of \$100 as a penalty for the violations found in this proceeding. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois EPA, 2200 Churchill Road, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted the 9th day of October, 1975 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board