

ILLINOIS POLLUTION CONTROL BOARD
November 16, 1978

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-205
)
VILLAGE OF BROADWELL,)
)
Respondent.)

MR. PATRICK J. CHESLEY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

HARRIS AND HARRIS, ATTORNEYS AT LAW (MR. THOMAS M. HARRIS, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the July 28, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency") which alleged that, from October 24, 1977 until July 28, 1978, the Village of Broadwell discharged wastewater containing contaminants and pollutants into a water of the State from its public water supply system without possessing an NPDES permit for point source discharges issued by the Agency in violation of Rule 901 and 902(e) of Chapter 3: Water Pollution Regulations and Section 12(f) of the Illinois Environmental Protection Act ("Act"). A hearing was held on October 26, 1978. The parties filed a Stipulation and Proposal for Settlement on November 1, 1978.

The Village of Broadwell is an Illinois municipal corporation which operates a public water supply system in Logan County, Illinois. The stipulated facts indicate that a periodic back flushing of the public water supply system caused a discharge of wastewater containing contaminants to flow into an unnamed tributary to the Lake Fork of Salt Creek. Salt Creek is a navigable water and water of the State. Salt Creek is a tributary of the Sangamon River which is also a navigable water and water of the State.

During the period from October 24, 1977 to the filing of the Complaint, the Village of Broadwell did not possess an NPDES permit issued by the Illinois Environmental Protection Agency for the

discharge of the wastewater containing contaminants from its public water supply system. (Stipulation, p. 2).

The State of Illinois obtained the authority to implement the NPDES program on October 24, 1977 when the Illinois Pollution Control Board filed with the Secretary of State a copy of the letter of approval of the Illinois program by the Administrator of the United States Environmental Protection Agency. Such filing effectuated Water Pollution Rules 901 and 902(e) of Chapter 3 of the Board's Rules and Regulations.

On May 26, 1978 the Village President of Broadwell received a letter from the Agency advising that the Village needed an NPDES permit. In addition, the letter indicated that, if the Village failed to apply for a permit or give a satisfactory explanation as to why such application was not needed, the Agency after thirty days would begin an enforcement proceeding. The Village did not contact the Agency within thirty days. The reason the Respondent did not contact the Agency is that the Village possessed an NPDES permit for a sewage treatment plant and thought that the permit for a sewage treatment plant covered the discharge from its public water supply system. (Stipulation, p. 3). Both the Complainant and Respondent agree that it is both technically practicable and economically reasonable to obtain an NPDES permit for the wastewater discharge from the Village's public water supply system. (Stipulation, p. 4).

The Stipulation and Proposal for Settlement provides that the Village of Broadwell agrees, to apply for and follow through and obtain an NPDES Permit for its wastewater discharge from its public water supply system and pay a stipulated penalty of \$100.00 . (Stipulation, p. 5).

In evaluating this enforcement action and proposed settlement, 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. Incinerator, Inc. v. Illinois Pollution Control Board, 59 Ill. 2d 290, 319 N.E. 2d 794 (1974). On the basis of the record, the Board finds that the Village of Broadwell has violated Rule 901 and 902(e) of Chapter 3: Water Pollution Regulations and Section 12(f) of the Illinois Environmental Protection Act from October 24, 1977 until July 28, 1978. Accordingly, the stipulated penalty of \$100.00 is assessed against the Respondent.

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 Village of Broadwell has violated Rule 901 and 902(e) of Chapter 3: Water Pollution Regulations and Section 12(f) of the Illinois Environmental Protection Act from October 24, 1977 until July 28, 1978.

2. Within 45 days of the date of this Order, the Village of Broadwell shall pay the stipulated penalty of \$100.00 , payment to be made by certified check or money order to:

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

3. The Village of Broadwell shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed November 1, 1978, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 16th day of November, 1978 by a vote of 3-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board