

ILLINOIS POLLUTION CONTROL BOARD

October 3, 1972

ENVIRONMENTAL PROTECTION AGENCY)

v.)

HIGH LAKE POULTRY, INC.)

PCB 72-198

OPINION AND ORDER OF THE BOARD (by Mr. Dumelle)

The Complaint in this enforcement action alleged that during the period beginning June 10, 1971 and continuing thru the date of the hearing in this matter High Lake constructed and was operating its waste water treatment facilities located near West Chicago, DuPage County, Illinois without first obtaining a valid permit from the Agency, in violation of Section 12(b) of the Environmental Protection Act. It was further alleged that since January 22, 1971, High Lake operated those treatment facilities without employing an operator certified by the Agency, in violation of Rule 1.02 of the Sanitary Water Board Rules and Regulations Number 2 in effect by Section 49(c) of the Act. High Lake filed an Answer admitting the allegations but at the same time pleading circumstances in mitigation of the violations.

On August 8, 1972, a hearing was held wherein High Lake again admitted to the alleged violations and then presented evidence in mitigation. The evidence indicates that in 1965 High Lake made application for a building permit for its processing plant on the premises. The DuPage County Building Department in conjunction with the DuPage County Health Department and the Illinois Sanitary Water Board required that the company build a sewage or waste disposal system on its property prior to the issuance of the permit. High Lake hired a company to do the construction which was completed at a cost of around \$16,000. The new facility treated the wastes in a basin from which the fluid was gravity fed into a pond for further treatment and from there it emptied into Kress Creek, a tributary to the DuPage River.

The treatment facility, while approved by all of the above-mentioned departments, never worked properly. Regular tests taken by the Sanitary Water Board showed an extremely high BOD. In order to correct this problem, High Lake employed an engineer who prepared plans for a new

system. The plans were then submitted to the Sanitary Water Board for approval. However, there was no guarantee that the new system would lower the BOD to the legal limit.

On October 8, 1969, the Water Board issued a permit authorizing construction as per the plans. About this time, High Lake was also contemplating building a new addition to their existing plant. The DuPage County Building Department would not issue a permit for construction of the addition unless a cash bond of \$10,000 was posted to guarantee that the proposed treatment facilities would reduce the BOD to the legal limit. There was no way, however, that such guarantee could be made.

In the summer of 1970, a development company announced plans to build multiple dwellings in the area which would require the extension of sewers to a point across the street from High Lake. High Lake began negotiations with the City of West Chicago for the purpose of annexing and connecting into the City's sewage treatment facilities. On July 8, 1970, High Lake sent a letter to the Illinois Environmental Protection Agency (Agency) notifying it of the negotiations. On October 2, 1970, the Agency responded by letter, specifically encouraging High Lake's efforts to connect into the West Chicago system and requesting that it be informed of all developments.

On November 19, 1970, High Lake confirmed with the developer an agreement to tie into the sewers. In April, 1971, formal petition for annexation along with a copy of the Annexation Agreement was submitted to West Chicago by High Lake. On April 9, 1971, High Lake received a memorandum from the Illinois Department of Agriculture requiring full compliance with their standards on or before June 15, 1971. The violation specifically was that inadequate employee toilet and welfare facilities which, incidently, was exactly what the proposed new addition to the plant would have corrected. At that point High Lake found itself in the predicament of being required by the Agriculture Department to construct certain employee facilities but also being required by the DuPage County Building Department to post a cash bond of \$10,000 to guarantee the success of its waste water treatment before it would issue a permit to construct those employee facilities.

To further complicate the situation, High Lake was advised by the Agency on April 30, 1971 that West Chicago, with whom it was seeking annexation, was having a sewage treatment problem. Subsequently, after consultation with the DuPage County authorities and the Department of Agriculture, High Lake agreed to start construction on its own sewage treatment facility, make application to the DuPage County Building Department for the issuance of a building permit and advise the City of West Chicago

of the abandonment of the annexation proceedings. High Lake followed through on this program and on May 20, 1971 received notice from the Building Department that the permit would issue but with the provision that occupancy would be denied until such time as the sewage treatment improvements were under construction.

On June 11, 1971, High Lake received notice from the Agency that it was in violation because of the construction without a state permit. Permit application was then made but was denied. On June 28, 1972, another application for permit was filed with the Agency. High Lake now has a certified operator for the waste treatment facility.


We find that the violations did occur as alleged. Under these circumstances we find that appropriate penalties for the violations would be \$2000 for constructing and operating without a permit and \$500 for not having a certified operator.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. High Lake Poultry, Inc. shall cease and desist from all violations found in this opinion and in particular shall obtain from the Agency a permit for the operation of its waste treatment facilities within 90 days of the date of this order.
2. High Lake Poultry, Inc. shall pay to the State of Illinois by November 15, 1972 as a penalty for the violations found in this proceeding the sum of \$2500. 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 Drive, Springfield, Illinois 62706.

I, Christian L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted on the 5th day of October, 1972 by a vote of 3-0.



Christian L. Moffett, Clerk
Illinois Pollution Control Board