

ILLINOIS POLLUTION CONTROL BOARD
August 30, 1990

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant)
)
vs.) PCB 90-106
) (Enforcement)
VILLAGE OF IPAVA, an Illinois)
municipal corporation,)
)
Respondent.)

APPEARANCE FOR COMPLAINANT BY JOHN J. KIM, ASSISTANT ATTORNEY GENERAL.

APPEARANCE FOR RESPONDENT BY TED G. COLLINS, COLLINS AND BORDNER.

OPINION AND ORDER OF THE BOARD (by R. C. Flemal):

This matter comes before the Board upon a complaint filed June 7, 1990, on behalf of the Illinois Environmental Protection Agency ("Agency"), by and through its attorney, Neil F. Hartigan, Attorney General of the State of Illinois, against the Village of Ipava ("Ipava"). The complaint alleges that Ipava has violated Section 18(a) of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1001, et seq., and 35 Ill. Adm. Code 604.301 of the Board's rules and regulations.

Hearing on this matter was held August 10, 1990, in Lewistown, Illinois. At hearing, the parties submitted a Stipulation and Settlement Agreement ("Agreement"), executed by the parties. Ipava admits the alleged violations.

The parties agree that a penalty in this instance would be inappropriate. Rather, the parties agree to a construction schedule for system improvements designed to achieve compliance, commencing on the date of this Board Order as set forth in the Agreement. The parties further agree that to aid in enforcement of the construction schedule, Ipava would pay contingent penalties pursuant to the schedule set forth in the Agreement and the Board's Order.

The Board finds the Settlement Agreement acceptable under 35 Ill. Adm. Code 103.180. The Settlement Agreement in no way affects Respondent's responsibility to comply with any federal, state or local regulations, including but not limited to the Act and the Board's pollution control regulations.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

- 1.) The Board hereby accepts the Stipulation and Settlement Agreement executed by the Illinois Environmental Protection Agency and the Village of Ipava ("Ipava"), concerning Ipava's public water supply system. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2.) Ipava shall pay contingent penalties pursuant to the following schedule:
 - (a) If Ipava fails to commence construction by November 29, 1990, it shall pay a contingent penalty of two hundred fifty dollars (\$250.00) for the initial violation and two hundred fifty dollars (\$250.00) for each day such violation continues, with a maximum contingent penalty of five hundred dollars (\$500.00) per month.
 - (b) If Ipava fails to complete construction by August 30, 1991, it shall pay a contingent penalty of two hundred fifty dollars (\$250.00) for the initial violation and two hundred fifty dollars (\$250.00) for each day such violation continues, with a maximum contingent penalty of five hundred dollars (\$500.00) per month.
 - (c) All payments of contingent penalties shall be made by certified check or money order to the Environmental Protection Trust Fund and submitted by First Class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Chruchill Road, P.O. Box 19276
Springfield IL 62794-9276

All payments of contingent penalties shall be made within thirty (30) days of the violation(s). The name, number of the case and the Village's FEIN number shall appear on the certified check or money order.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1989 ch. 111¹/₂ par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

Board Member J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 30th day of August, 1990 by a vote of 6-1.

Dorothy M. Gunn, Clerk
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board