

ILLINOIS POLLUTION CONTROL BOARD
November 21, 1985

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 84-84
)
MT. VERNON WATER AND SEWER)
CORPORATION, an Illinois)
corporation, and ALAN C.)
CONRAD,)
)
Respondents.)

MR. WILLIAM E. BLAKNEY, ASSISTANT ATTORNEY GENERAL, APPEARED FOR
COMPLAINANT;
MR. FRANK MROZ, CHAPMAN AND CUTLER, APPEARED FOR RESPONDENT.

OPINION AND ORDER (by B. Forcade):

This matter comes to the Board on a June 29, 1984 Complaint filed by the Illinois Environmental Protection Agency ("Agency") against the Mt. Vernon Water and Sewer Corporation and Alan C. Conrad ("Mt. Vernon Corp.") in Jo Davies County. The twelve count complaint claims violations relating to Mt. Vernon's operation of a public water supply system and waste water treatment plant, which serve the approximately 100-200 area residents in Jo Davies County. The complaint charges in Counts I and II that at various times since 1977 Mt. Vernon has violated the Environmental Protection Act ("Act") and Board regulations for its public water supply by having an inadequate well casing and by having a deteriorating and leaking pressure tank. The complaint also charges in Counts III through XII that at various time since 1977 Mt. Vernon has violated the Act and Board regulations by operating without an NPDES permit, exceeding applicable effluent regulations and NPDES permit limits, causing violations of non numeric water quality standards, failing to have a properly certified operator, and failing to submit monitoring reports. A hearing was held in Galena on July 29, 1985 at which the parties introduced a Stipulation of Facts and Proposal for Settlement ("Settlement"). On August 19, 1985, the Jo Davies County Health Department filed a public comment which reviewed the Settlement and urged "a more meaningful and significant civil penalty".

The Settlement Agreement summarizes the complaint, contains twenty-one numbered paragraphs of stipulated facts which admit to each violation charged in the complaint, lists a three page compliance program which will bring Mt. Vernon into compliance with all applicable standards for the water supply and the waste

water treatment plant not later than July 1, 1990, and provides for a \$1,500 civil penalty. The Board will accept the Settlement and direct that its provisions be carried out.

The Board has reviewed the Settlement in light of the factors in Section 33(c) of the Environmental Protection Act and finds the Settlement satisfactory. This Opinion constitutes the Board's findings of fact and conclusions of law on this matter.

ORDER

1. The Board finds that at various times since August 2, 1976, Mt. Vernon Water and Sewer Corporation violated Section 18 of the Environmental Protection Act in its operation of a community water supply.
2. The Board finds that at various times since November 7, 1977, Mt. Vernon Water and Sewer Corporation has violated the following provisions in its operation of a wastewaste treatment plant:

- 35 Ill. Adm. Code 309.102
- 35 Ill. Adm. Code 304.120(c)
- 35 Ill. Adm. Code 304.104(a)(3)
- 35 Ill. Adm. Code 304.106
- 35 Ill. Adm. Code 304.105 as it relates to 302.203
- 35 Ill. Adm. Code 312.101

Sections 12(a) and 12(f) of the Environmental Protection Act.

3. The Board finds a civil penalty of \$1,500 is appropriate and acceptable and hereby assesses same. Mt. Vernon shall pay the civil penalty according to the following schedule:
 - (a) \$500.00 shall be paid not later than January 22, 1986;
 - (b) \$500.00 shall be paid within 60 days of the payment referenced above in paragraph 3(a); and
 - (c) \$500.00 shall be paid within 60 days of the payment referenced above in paragraph 3(b).

Payment shall be made by certified or cashier's check or money order payable to:

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

Alan C. Conrad, as an individual, shall personally guarantee payment of the civil penalty referenced above in paragraph 3, in the event Mt. Vernon should fail to pay said penalty.

4. The Board directs Mt. Vernon Sewer and Water Corporation to fully comply with Part A ("Compliance Program and Schedule") of the Stipulation of Facts and Proposal for Settlement in this matter. For clarity, those provisions are reproduced below:

A.

COMPLIANCE PROGRAM AND SCHEDULE

22. Respondent Mt. Vernon Water and Sewer Company shall complete the following corrections to its public water supply system by August 30, 1985:

- a. Unless the Agency verifies that such action has already been completed, install well casing and column vents, and ensure that the well casing is at least (18) eighteen inches above ground level, as required in 3.2.5.8 Para. (a) of the Recommended Standards For Water Works issued by the Board of State Sanitary Engineers for the Great Lakes & Upper Mississippi River.
- b. Repair the well house roof.

23. Mt. Vernon shall submit a permit application to the Agency for disposal of sludge from the waste water treatment facility not later than August 30, 1985.

24. Respondent Mt. Vernon shall construct a two-cell aerated lagoon waste water treatment facility at the present site of its waste water treatment facility. The facility shall be designed in accordance with the "Illinois Recommended Standards For Sewage Works", and shall be constructed in two phases. Phase I shall include the construction of a new lagoon and Phase II shall include the restructuring of the present lagoon. Construction shall be according to the schedule set out below.

25. To finance the construction described above in paragraph 24, Respondent Conrad shall take all steps necessary to secure personal bank loans in the required amounts. Further, Respondent Conrad will enter into leases of the facility with Respondent Mt. Vernon. Pursuant to said leases,

Mt. Vernon will operate and maintain the facility and make rental payments to Respondent Conrad sufficient to amortize the debt incurred by Respondent Conrad. Mt. Vernon's rental payments to Respondent Conrad will be recovered by Mt. Vernon in increased rates as an operating expense. Illinois Commerce Commission approval of both the rate increase and the leases is required.

26. Respondent Mt. Vernon shall accomplish Phase I of the waste water treatment facility work as follows:

- A. Commence design of the new waste water treatment facility not later than August 1, 1985.
- B. File a permit application regarding the new waste water treatment facility with the Agency not later than December 1, 1985.
- C. File a rate case with the Illinois Commerce Commission not later than August 15, 1985.
- D. File a lease approval application with the Illinois Commerce Commission not later than October 1, 1985.
- E. Commence construction of Phase I of the new waste water treatment facility not later than May 1, 1986.
- F. Complete construction of Phase I of the new water treatment facility by June 1, 1986.

27. The dates contained in sub-paragraphs 26(E) and 26(F) are conditioned upon the following: (a) Illinois Commerce Commission approval by not later than March 1, 1986 of Mt. Vernon's request for a rate increase and lease approval; (b) Illinois Environmental Protection Agency approval by March 1, 1986 of the permit application; and (c) approval by Respondent Conrad's bank by April 1, 1986 of his personal loan request. Upon the submission of a sworn affidavit by Respondent Conrad that Respondents have taken all actions required by the compliance schedule, but that action by the Illinois Commerce Commission, the Illinois Environmental Protection Agency, or by Respondent Conrad's bank has not proceeded as planned due to delay not caused by the

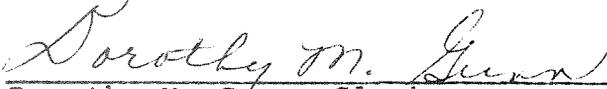
Respondents, the dates in sub-paragraphs 26(E), and 26(F) shall be extended by one day for each day of delay not caused by the Respondents.

28. Mt. Vernon shall follow a schedule in Phase II similar to the one followed in Phase I, with the Phase II commencement and completion dates being August 1, 1989 and July 1, 1990, respectively.

29. The parties stipulate and agree that any willful failure by the Respondents to comply with any and all terms of this Stipulation of Facts and Proposal For Settlement may be brought before a court of competent jurisdiction.

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 21st day of November, 1985 by a vote 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board