

ILLINOIS POLLUTION CONTROL BOARD  
April 24, 1986

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 85-201  
 )  
VILLAGE OF MORTON, a )  
municipal corporation, )  
 )  
Respondent. )

MR. JAMES ARCHIER, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. THOMAS E. DAVIES, VILLAGE ATTORNEY, APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by W.J. Nega):

This matter comes before the Board on a six-count Complaint filed on December 16, 1985 by the Illinois Environmental Protection Agency (Agency).

Count I of the Complaint alleged that: (1) on, or about, July 6, 1983, the Village of Morton (Village) caused or allowed a discharge of contaminants from the Morton Waste Water Treatment Plant #3 (WWTP#3) resulting in, or contributing to, the presence of unnatural sludge deposits, unnatural color, odor and turbidity in Ackerman Creek and Farm Creek, and (2) on, or about, August 22, 1984, the Respondent caused or allowed a discharge of contaminants from WWTP#3 resulting in, or contributing to, the presence of unnatural sludge deposits, unnatural color, odor and turbidity in Ackerman Creek in violation of 35 Ill. Adm. Code 302.203, 35 Ill. Adm. Code 304.105 and Section 12(a) of the Illinois Environmental Protection Act (Act).

Count II alleged that, on, or about, August 22, 1984, the Village caused or allowed a discharge of contaminants from WWTP#3 resulting in, or contributing to, the presence of a dissolved oxygen concentration of less than 5.0 milligrams per liter (mg/l) in Ackerman Creek which caused the death of fish having a value of \$60.53 in violation of 35 Ill. Adm. Code 302.206, 35 Ill. Adm. Code 304.105 and Section 12(a) of the Act.

Count III alleged that, on, or about, July 6, 1983 and on, or about, August 22, 1984, the Village discharged contaminants

from WWTP#3 resulting in, or contributing to, the presence of an ammonia nitrogen concentration in excess of 15 mg/l in violation of 35 Ill. Adm. Code 302.212(a), 35 Ill. Adm. Code 304.105 and Section 12(a) of the Act.

Count IV alleged that: (1) on, or about, July 6, 1983, the Village discharged effluent from WWTP#3 containing five-day biochemical oxygen demand (BOD<sub>5</sub>) in excess of five times the numerical standards applicable to the discharge and (2) on, or about, August 22, 1984, the Respondent discharged effluent from WWTP#3 containing total suspended solids (TSS) in excess of five times the numerical standard applicable to this discharge in violation of 35 Ill. Adm. Code 304.120(c) and Section 12(a) of the Act.

Count V alleged that, on or about, July 6, 1983 and on, or about, August 22, 1984, the Village discharged effluent from WWTP#3 containing obvious color and odor in violation of 35 Ill. Adm. Code 304.106 and Section 12(a) of the Act.

Count VI alleged that, from October 1, 1983 until December 16, 1985, the Village has failed to submit final plans and specifications for achieving appropriate final effluent limitations to the State of Illinois, thereby violating Special Condition 5 of its NPDES Permit No. IL0030007 in violation of 35 Ill. Adm. Code 309.102 and Section 12(f) of the Act.

A hearing was held on March 31, 1986 at which no members of the public were present. (R. 2). The parties filed a Stipulation and Proposal for Settlement on April 2, 1986.

The Respondent, the Village of Morton, is a municipal corporation located in Tazewell County, Illinois which owns and operates a wastewater treatment facility commonly known as the Morton Waste Water Treatment Plant #3 located within the corporate boundaries of the Village. This wastewater treatment facility, which is a package activated sludge treatment system followed by an aerated polishing pond, discharges its effluent to Ackerman Creek, which is a tributary to Farm Creek and the Illinois River. (Stip. 1-2).

The Respondent's effluent discharges from its WWTP#3 are authorized pursuant to its NPDES Permit No. IL0030007 which was issued on July 28, 1982 and is scheduled to expire on May 31, 1987. This NPDES Permit sets interim and final discharge limits for BOD<sub>5</sub> and total suspended solids at 10 mg/l and 12 mg/l respectively (as a monthly average). (Stip. 2).

The parties have stipulated that: (1) the contents of the Respondent's polishing pond consist of a mixture of secondary effluent and bypassed raw sewage; (2) on, or about, July 6, 1983 and on, or about, August 22, 1984, the Respondent discharged effluent from WWTP#3 into Ackerman Creek and Farm Creek which

resulted in, or contributed to, the presence of unnatural sludge bottom deposits, unnatural color, odor and turbidity; (3) on, or about, July 7, 1983, Agency inspector Newman observed and sampled the WWTP#3 discharge and the receiving waters and observed that the WWTP#3 discharge was turbid, had a slight sewage odor, and contained visible black sludge solids and found that the effluent (which was grab sampled) has a TSS concentration of 71 mg/l; (4) on August 22, 1984, Agency inspector Newman observed that (a) a black sludge had been discharged from the polishing pond while it was being drained, (b) the polishing pond was completely covered with duck weed, (c) in Ackerman Creek, there was a heavy dark green algae growth on the sand and gravel bottom and a great deal of duck weed along the edges of the stream, and (d) the discharge effluent from WWTP#3 was slightly turbid and had a slight septic sewage odor and found that the effluent (which was grab sampled) had a BOD<sub>5</sub> concentration of 51 mg/l. (Stip. 2-3).

Additionally, it is stipulated that: (1) on, or about, August 22, 1984, the Respondent discharge effluent from its WWTP#3 which resulted in, or contributed to, an ammonia nitrogen concentration in Ackerman Creek of greater than 15 mg/l; (2) on, or about, July 7, 1983, the Respondent discharged effluent from its WWTP#3 which had a total suspended solids' concentration of approximately 70 mg/l; (3) on, or about, July 7, 1983 and August 22, 1984, the Respondent discharged effluent from its WWTP#3 which contained obvious color and odor; (4) the Respondent has not complied with Special Condition 5 of its NPDES Permit which required the Village to submit the requisite final plans and specifications for the upgrading of its WWTP#3 to the Agency by September 30, 1983. (Stip. 3-4).

In mitigation, the parties have stipulated that: (1) the Respondent made a prompt commitment to remove the sludge from Ackerman Creek following both the 1983 and 1984 sludge discharges and expended significant resources on sludge removal to correct the environmental problem; (2) the discharges previously mentioned all occurred during normal maintenance operations and "were not the result of intentional or reckless conduct" and (3) the Respondent "did not submit final plans and specifications for upgrading to the State because of uncertainty regarding the service area and flows to be received at WWTP#3". (Stip. 4).

The proposed settlement agreement provides that the Respondent admitted the violations alleged in the Complaint and agreed to: (1) remove sludge from the polishing lagoon and re-pipe the aerators to eliminate the necessity for future lagoon draw-downs in accordance with a specified compliance schedule; (2) upgrade its WWTP#3 to meet the final effluent limitations delineated in its NPDES Permit in accordance with an agreed-upon compliance schedule; (3) pay a stipulated penalty of \$1,439.00 into the Environmental Protection Trust Fund within 30 days of the date of the Board's Order, and (4) reimburse the State of

Illinois Wildlife and Fish Fund in the amount of \$60.53 (representing the value of the fish destroyed on, or about, August 22, 1984) within 30 days of the date of the Board's Order. (Stip. 5-8).

In evaluating this enforcement action and proposed settlement agreement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act and finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180.

The Board finds that the Respondent, the Village of Morton, has violated 35 Ill. Adm. Code 302.203, 302.206, 302.212(a), 304.105, 304.106, 304.120(c), and 309.102(a) and Sections 12(a) and 12(f) of the Act. The Respondent will be ordered to follow the agreed-upon compliance plan and schedule, to pay a stipulated penalty of \$1,439.00 into the Environmental Protection Trust Fund, and to reimburse the Illinois Wildlife and Fish Fund in the amount of \$60.53 for fish killed.

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. As admitted in the Stipulation, the Respondent, the Village of Morton, has violated 35 Ill. Adm. Code 302.203, 302.206, 302.212(a), 304.105, 304.106, 304.120(c) and 309.102(a) and Sections 12(a) and 12(f) of the Illinois Environmental Protection Act.
2. As per the stipulated agreement between the parties, the Village of Morton shall remove sludge from its polishing lagoon and re-pipe the aerators to eliminate the necessity for future lagoon draw-downs in accordance with the following schedule:

<u>Item</u>	<u>Completion Date</u>
Submit plans setting forth procedures for the removal of sludge, and describing improvements to the aeration system, to the Agency's Peoria Regional Office for comment.	Completed

Agency submission of its comments to the Village. Completed

Commence sludge removal and improvements to aeration system. Completed

Complete sludge removal and improvements to aeration system. Completed

3. As per the stipulated agreement between the parties, the Village of Morton shall upgrade its Waste Water Treatment Plant #3 to meet the final effluent limitations set forth in its NPDES Permit No. IL0030007 in accordance with the following schedule:

<u>Item</u>	<u>Completion Date</u>
Submit final MCP to IEPA/DWPC, Permit Section.	Completed
Submit final plans and specifications to IEPA/DWPC, Permit Section.	10/01/86, unless service area cannot be determined, but in any event no later than 01/31/87
Complete upgrading	07/01/88

4. Within 30 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois and designated for deposit into the Environmental Protection Trust Fund, pay the stipulated penalty of \$1,439.00 which is to be sent to:

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

5. Within 30 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois and designated for deposit into the State of Illinois Wildlife and Fish Fund, pay the stipulated sum of \$60.53 (as reimbursement representing the value of the fish destroyed on, or about, August 22, 1984) which is to be sent to:

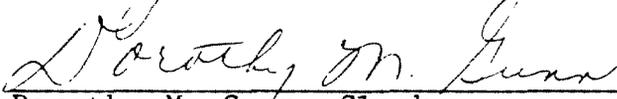
Mr. William Hutton, Esq.  
Agency Advisor  
IEPA Enforcement Programs  
Illinois Environmental Protection Agency  
2200 Churchill Road  
Springfield, Illinois 62706

6. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on April 2, 1986, which is incorporated by reference as if fully set forth herein.

IT IS SO ORDERED.

Board Member J. Theodore Meyer concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 24<sup>th</sup> day of April, 1986 by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board