

ILLINOIS POLLUTION CONTROL BOARD
December 16, 1982

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 81-183
)
VILLAGE OF PAWNEE, an Illinois)
municipal corporation,)
)
Respondent.)

GWENDOLYN W. KLINGLER, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

PFEIFER & KELTY, P.C. (MR. THOMAS W. KELTY AND MR. KEVIN B. MCCARTHY, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the November 13, 1981 Complaint brought by the Illinois Environmental Protection Agency ("Agency").

Count I of the Complaint alleged that, from February 2, 1980 until November 13, 1981 (including, but not limited to, the months of February, 1980 and March, 1980, as well as on April 17, 1980 and May 15, 1980), the Village of Pawnee ("Village") caused or allowed the discharge of contaminants from its wastewater treatment facility ("facility") into Horse Creek, a tributary of the Sangamon River, without an NPDES Permit in violation of Rule 901 of Chapter 3: Water Pollution Regulations ("Chapter 3") and Section 12(f) of the Illinois Environmental Protection Act ("Act").

Count II alleged that, during the time period between August 25, 1977 and September 16, 1977, the Respondent modified its facility by physically removing or destroying all eight of its intermittent sand filters without the issuance of an Agency Construction Permit authorizing such modification, thereby violating Rules 910(n)(1) and 910(n)(2) of Chapter 3 and Section 12(a) of the Act.

Count III alleged that the removal or destruction of the eight sand filters without reporting such facility modification to the Agency, and without its NPDES Permit being modified or re-issued by the Agency, was an unauthorized modification in violation of NPDES Permit conditions, Rule 901 of Chapter 3, and Section 12(f) of the Act.

Count IV alleged that, from June 28, 1979 until the expiration of its NPDES Permit on February 1, 1980 (including the semi-annual submission dates of June 28, 1979 and December 28, 1979), the Village failed to submit its discharge monitoring reports in a timely fashion, and, during this same period of time, discharged effluent containing contaminants from its facility in violation of its NPDES Permit, Rules 501(c) and 901 of Chapter 3, and Section 12(f) of the Act.

Count V alleged that the Respondent caused or allowed the discharge of contaminants from its facility containing concentrations of BOD₅ and total suspended solids, on a 30-day average, in excess of its NPDES Permit limits during the months of December, 1977, January, 1978, February, 1979, March, 1979, and April, 1979 in violation of its NPDES Permit, Rules 410(a) and 901 of Chapter 3, and Section 12(f) of the Act.

On January 29, 1982, the Respondent, Village of Pawnee, filed a Motion to Strike in its entirety the Complaint filed on November 13, 1981. On January 29, 1982, the Agency filed its Objection to the Respondent's Motion to Strike. On February 4, 1982, the Board entered an Order which denied the Respondent's motion.

A hearing was held on October 20, 1982. The parties filed a Stipulation and Proposal for Settlement on November 17, 1982.

The Respondent owns and operates a wastewater treatment plant located in the Village of Pawnee, Sangamon County, Illinois which discharges effluent into Horse Creek, a tributary of the Sangamon River. (Stip. 2). The Village was issued NPDES Permit No. IL 0033324 on February 13, 1975 and the NPDES Permit, as modified on May 20, 1977, expired on February 1, 1980. (Stip. 2; Ex. A & B). An NPDES Permit renewal application was submitted to the Agency on June 23, 1981.

The proposed settlement agreement provides that the Respondent admits the allegations in the Complaint and agrees to: (1) follow a detailed compliance plan and schedule to correct all environmental problems (including the development of sewer system evaluation surveys and corrective plans, design and construction of the requisite improvements in the facility, prompt grant applications, and "construction of a tertiary treatment system regardless of the availability of Federal or State funding") and (2) pay a stipulated penalty of \$6,000.00. (Stip. 10-13).

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. The Board finds the settlement agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act.

The Board finds that the Respondent, Village of Pawnee, has violated Rules 410(a), 501(c), 901, 910(n)(1), and 910(n)(2) of

Chapter 3: Water Pollution Regulations and Sections 12(a) and 12(f) of the Act. The Respondent will be ordered to follow the specified compliance plan and pay a stipulated penalty of \$6,000.00.

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. Respondent, Village of Pawnee, has violated Rules 410(a), 501(c), 901, 910(n)(1), and 910(n)(2) of Chapter 3: Water Pollution Regulations and Sections 12(a) and 12(f) of the Illinois Environmental Protection Act.


2. Within 30 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay a stipulated penalty of \$6,000.00, which is to be sent to:

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

3. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on November 17, 1982, which is incorporated by reference as if fully set forth herein.

Chairman Dumelle dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 16th day of December, 1982 by a vote of 4-1.



Christan L. Moffett, Clerk
Illinois Pollution Control Board