

ILLINOIS POLLUTION CONTROL BOARD
October 13, 1977

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 76-323
)
HINSDALE SANITARY DISTRICT,)
a municipal corporation, and)
VILLAGE OF CLARENDON HILLS,)
a municipal corporation,)
)
 Respondents.)

Ms. Helga Huber, Assistant Attorney General, appeared on behalf of the People;
Mr. Louis R. Main, Scofield & Main, appeared on behalf of the Hinsdale Sanitary District;
Mr. Harvey M. Sheldon, Plunkett, Nisen, Elliot & Meier, appeared on behalf of the Village of Clarendon Hills.

OPINION AND ORDER OF THE BOARD (by Mr. Young):

This matter comes before the Board upon a Complaint filed by the Attorney General against the Hinsdale Sanitary District (HSD, District) on December 20, 1976. The Complainant alleged that the District had caused or allowed surcharges from its sanitary sewer system in violation of Rule 602(b) of Chapter 3 of the Pollution Control Board Regulations (Regulations) and Section 12(a) of the Environmental Protection Act (Act).

The Complaint was amended on February 7, 1977, naming the Village of Clarendon Hills (Village) as owner of the sanitary sewer system in question. The Village filed a Motion to Dismiss and the People responded with a Motion to Strike. On June 9, 1977, the Board ruled to Stay the Motion until the hearing.

On July 29, 1977, the hearing was held in Hinsdale, Illinois. At that time the parties presented their Stipulation and Proposal for Settlement which admits to the violations in the Complaint and thereby moots all prior motions.

The Respondents in this Settlement stipulate that the Village was the original owner and operator of this sanitary sewer system. On July 8, 1970, the Village and the District entered into an agreement in which the District assumed operation and maintenance responsibilities of the sanitary sewer system in the Village including round-the-clock response to sewer problems. The Village, however, retained ownership of the sanitary sewers and responsibility for the storm sewers. The Respondents further admit that surcharges from this sewer system have flooded many homes on Grant, Prospect, and Walker Avenues in Clarendon Hills for many years (Stip. 8, p4-5).

Since February, 1977, the District has conducted many investigations and has completed numerous projects to correct this overflow problem (Stip. 10, p6-7). The District admits that the conditions causing surcharges still exist. It contends that the problem will not be solved until inflow from surface water runoff is diverted and the influx from point sources are identified and eliminated. At the present time the Village is seeking a grant for a \$300,000 storm sewer project designed to alleviate flooding during periods of precipitation.

PROPOSAL FOR SETTLEMENT

In the Proposal for Settlement, the District agrees to complete its investigatory program by January 1, 1978, and to continue projects which are designed to eliminate excessive infiltration and inflow contributing to surcharges in the Village.

The Attorney General and the Village will closely monitor the District's progress in this matter. The HSD agrees to provide the Attorney General and an authorized representative of Clarendon Hills with advance notice of any testing or inspection of the Village's sanitary sewer. The District shall also submit monthly progress reports of its investigation program to the aforementioned parties and maintain for review accurate records of sanitary surcharge incidents including follow-up efforts and corrective measures.

In addition, the HSD shall notify the Attorney General of all completed sanitary sewer projects designed to eliminate the surcharging problem. The District agrees to strictly enforce the ordinance regulating its sewers. It further stipulates that it will obtain all permits required for any work performed pursuant to this Settlement, and the District shall forward all copies of the permit applications and permits granted or denied to the Attorney General and Clarendon Hills.

The Village of Clarendon Hills agrees to execute a Quit-Claim Deed transferring its title and all interests in the sanitary sewer system to the District within 30 days of this Board Order. Upon its execution, the Village shall be dismissed from this action.

The Attorney General recommends that no penalty be assessed in this case. The Board recognizes the District's willingness to bring the sanitary system into compliance and will impose no penalty at this time. The Board believes that public funds in this instance would be better spent on meaningful pollution control measures rather than for past transgressions. The Board will, however, retain continuing jurisdiction in this cause pending completion of the District's investigative program scheduled to be completed on January 1, 1978.

The Board finds the Stipulation and Proposal for Settlement in compliance with the requirements of Procedural Rule 331. The Board also finds the terms of the Settlement to be acceptable and will require that the parties adhere to all provisions contained therein.

The Stipulation recites that the Village of Clarendon Hills is actively seeking grant funds for a storm sewer system which is designed to divert surface water runoff from their overloaded sanitary sewer. The Board commends such efforts and expects that the Village will take all reasonable measures to expedite this much-needed improvement.

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

ORDER

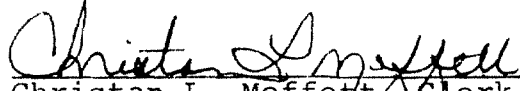
1. The Hinsdale Sanitary District is hereby found to have caused or allowed surcharges from the sanitary sewer system in Clarendon Hills in violation of Rule 602(b) of the Chapter 3 Regulations and Section 12(a) of the Act.

2. The District shall adhere to all provisions of the Settlement Proposal, which is hereby incorporated by reference as if fully set forth herein.

3. The Board shall retain jurisdiction in this cause pending completion of the investigative program scheduled for completion on January 1, 1978.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 13th day of October, 1977 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board