

ILLINOIS POLLUTION CONTROL BOARD
May 6, 1976

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-372
)
 CITY OF BENLD,)
)
 Respondent.)

Mr. Barry Forman, Assistant Attorney General, appeared on behalf of Complainant;
Mr. J.E. Wenzel, appeared on behalf of Respondent.

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

This matter comes before the Board on a Complaint filed on September 24, 1975, by the Environmental Protection Agency (Agency). The Complaint consists of two counts, the second of which pertains to NPDES permit violations. That Count was struck by the Board on September 29, 1975. Count One alleges that the City of Benld (Benld) (pop. 1,736) in Macoupin County, has operated its sewage treatment system so as to violate Section 12(a) of the Environmental Protection Act (Act) and Rules 203(a), 402, 403, 405, 501(a) and 1201 of the Board's Water Pollution Regulations.

On October 16, 1975, the Agency filed a Request for Admission of Facts, pursuant to Rule 314 of the Board's Procedural Rules. There was no response from Benld on the Request for Admissions. Therefore, the facts alleged therein are deemed admitted by operation of Procedural Rule 314(c). A hearing was held on December 18, 1975 at which time Benld further stated that it had no objection to the facts stated in the Request for Admission (R.5). Benld also stipulated to the accuracy of the 54 exhibits submitted into evidence by the Agency (R.10).

The evidence and admissions are more than adequate for finding of each violation alleged in the Complaint. Some of the violations include the discharge of inadequately treated sewage, harm to the stream, excess ammonia nitrogen and fecal coliform effluents, poor maintenance of the sewage plant and lack of a certified operator. Benld's STP discharges into an unnamed tributary of Cahokia Creek.

The issue before the Board is the construction of a remedy which will reflect the need for an incentive for Benld to exert maximum efforts towards compliance. In most instances a substantial penalty would provide such an incentive. However, in this instance the violator has already made commitments to improve its plant's operations. Recognition is given to Project Optimize and its efforts to encourage and assist municipalities to improve their treatment facilities. The Board finds that a new attitude of cooperation has been exhibited by Benld and the Board feels that a large penalty in this particular case would not serve any purpose.

In mitigation, the Board has considered the positive attitude of Respondent and its current efforts toward compliance. Respondent has cooperated with the Agency and is now in the process of bringing the plant's maintenance up to standard. Some of the work has been completed and the rest is under a compliance schedule (Ex. 54). The plant operator is currently enrolled in a wastewater course and formal training is underway.

However, the duration and seriousness of these violations warrants both a penalty and some assurance of future efforts by Benld to bring their plant into compliance. A penalty of \$400.00 will be adequate in this case. The Board will also order Benld to adhere to its Project Optimize compliance schedule (Exhibit 54) and otherwise exercise diligence in its efforts to improve the plant's operations.

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

ORDER

1. The Pollution Control Board finds Respondent City of Benld to have violated Section 12(a) of the Environmental Protection Act and Rules 203(a), 402, 403, 405, 501(a) and 1201 of the Board's Water Pollution Regulations.

2. Respondent City of Benld shall pay a penalty for the aforesaid violations the sum of \$400.00 payment to be made by certified check or money order within 35 days of the date of this Order to:


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

3. Respondent City of Benld shall adhere to the Compliance Schedule as enumerated in Exhibit 54 and shall complete all phases of said compliance plan by July 15, 1976.

IT IS SO ORDERED.

Mr. Young abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 6th day of May, 1976 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board