

ILLINOIS POLLUTION CONTROL BOARD  
February 5, 1981

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 79-42
	)	
VILLAGE OF PORT BYRON,	)	
an Illinois Municipal	)	
Corporation,	)	
	)	
Respondent.	)	

MR. ALFRED RYAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

LYTTON, DALTON & LYTTON, ATTORNEYS AT LAW (MR. JULIUS LYTTON, 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 February 26, 1979 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). The Complaint alleged that the Village of Port Byron ("Village") operated its sewage treatment plant without a properly certified operator and failed to submit the requisite semiannual discharge monitoring reports and operating reports to the Agency in violation of its NPDES Permit, Rules 501, 901, and 1201 of Chapter 3: Water Pollution Control Regulations ("Chapter 3"), and Sections 12(a), 12(b), and 12(f) of the Illinois Environmental Protection Act ("Act"). A hearing was held on December 15, 1980. On December 29, 1980, the parties filed a Stipulation and Settlement Agreement.\*

The Village of Port Byron is an Illinois municipality which owns and operates a sewage treatment facility which discharges wastewater into an unnamed tributary of the Mississippi River

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\*Although the settlement agreement was not signed at the time of the hearing, the substance of the Stipulation filed on December 29, 1980 was presented. The Board finds that Procedural Rule 331 has been substantially complied with.

pursuant to its NPDES Permit No. IL 0023507. This NPDES Permit requires that the Village submit semiannual discharge monitoring reports to the Agency. (Stip. 2). The Agency contends that, from July 19, 1977 until March, 1979, the Respondent failed to submit the necessary discharge monitoring reports to the Agency. On the other hand, the Village states that the appropriate discharge monitoring reports were submitted since May 31, 1978. However, the Agency has indicated that a search of its records reveals no discharge monitoring reports for the period from June, 1978 until March, 1979. According to the Agency, it has been receiving these reports only since April, 1979. (Stip. 3).

The parties have stipulated that, from January, 1977 until November, 1980, the Village has not had a properly certified Class 4 operator for its sewage treatment plant. (Stip. 3). However, at the hearing, the Respondent's attorney indicated that they did have a certified operator for a period of time but failed to notify the Agency of this fact. (R. 8-9). Accordingly, the Village has no objection to the statements made in the Stipulation and intends to submit to the Agency a copy of an employment contract which specifies the status and duties of the currently certified operator. (R. 9).

The proposed settlement agreement provides that the Village shall: (1) properly operate and maintain its sewage treatment facilities; (2) submit the necessary discharge monitoring reports and comply with the provisions of its NPDES Permit; (3) employ a properly certified wastewater treatment operator; and (4) pay a stipulated penalty of \$700.00 .

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, the Village of Port Byron, has violated Rules 501, 901 and 1201 of Chapter 3: Water Pollution Control Regulations and Sections 12(a), 12(b), and 12(f) of the Act and hereby assesses the stipulated penalty of \$700.00 against the Respondent.

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. The Respondent, the Village of Port Byron, has violated Rules 501, 901, and 1201 of Chapter 3: Water Pollution Control Regulations and Sections 12(a), 12(b), 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 the stipulated penalty of \$700.00 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 Settlement Agreement filed December 29, 1980, which is incorporated by reference as if fully set forth herein.

Chairman Dumelle concurs.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 5th day of February, 1981 by a vote of 5-0.



Christan L. Moffett, Clerk  
Illinois Pollution Control Board