

ILLINOIS POLLUTION CONTROL BOARD  
May 24, 1979

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 78-111  
 )  
VILLAGE OF BASCO, )  
a municipal corporation, )  
 )  
Respondent. )

MR. REED W. NEUMAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. LEROY A. UFKES, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the April 20, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency") which alleged that, from October 24, 1977 until the date of filing of the Complaint, the Respondent, the Village of Basco (the "Village"), caused or allowed discharges from its sewer system without the appropriate National Pollutant Discharge Elimination System Permit ("NPDES Permit") in violation of Rule 901 of Chapter 3: Water Pollution Control Regulations and Section 12(f) of the Illinois Environmental Protection Act ("Act"). On May 19, 1978, the Agency filed its Request for Admission of Facts and Genuineness of Documents. The Respondent's Answer to the Request for Admission of Facts and Genuineness of Documents was filed on June 12, 1978. A hearing was held on July 20, 1978.

The Village of Basco is located in Hancock County, Illinois. At the hearing, the Village President (Mr. William O. Damron), a Village Trustee (Mr. Stanley Davidson), the Village Treasurer (Mrs. Mary Lou Smart), and the Village Clerk (Mr. Douglas Steffey) testified on behalf of the Respondent. The Village officials' testimony indicated that they believed that Basco does not, in fact, have a sewer system. Their basic contention was that the "sewer system" in question merely consists of two old storm water drains which drain the main streets of the town about 4 times a year

during extremely wet weather; and if there are any sewer connections, these connections are unknown to the Village officials.

On the other hand, Mr. James E. Kammueler, an Agency employee, testified that his inspections and the testing of water samples revealed that the two tile outlets have discharged sewer wastewater and contaminants into a tributary of Bear Creek, a water of the State of Illinois. (R. 11-15; R. 19-24; R. 32-36; R. 91). He observed tissue paper, gray sewage waste, sewage debris, sludge deposits, floating film, and septic sewage odor coming from these Main Street outlets. (R. 11; R. 17-19; R. 23-24; See: Complainant's Exhibit 3). Mr. Kammueler also testified that the Village officials did not respond to several letters that the Agency sent to them pertaining to the results of his inspections. (R. 46; See: Complainant's Exhibit 1).

In regard to the Village's failure to respond to these past letters, Mr. William O. Damron, the Village President, indicated that he had not contacted the Agency primarily because of his inability to know how to answer their letters. (R. 81-82). Moreover, Mr. Damron stated that he found the various forms that were sent to him extremely difficult to understand and felt that he wasn't capable of properly filling them out. (R. 68). However, after consultation with and help from Mr. Kammueler, the Village prepared an application for its NPDES Permit and forwarded that application to the Agency. (R. 75-76; R. 98).

Because the Village of Basco has a population of only about 175 people and extremely limited financial resources, various future alternatives were discussed at the hearing. (R. 66-70; R. 95). The pursuit of grant funds, the adoption of a Village ordinance to regulate the discharges from individual sewage disposal systems (i.e., septic tanks), the possibility of applying for a variance, and the installation of a properly designed pipe sewer system were all considered. (R. 91-96). It is our understanding that the financing needed to fund corrective measures to rectify the problems with the Village of Basco's sewer system may be available from certain Federal and state agencies working in conjunction with each other. The Village is strongly urged to check out such sources as the Federal Economic Development Administration (EDA), the Farmers' Home Administration, and the Department of Housing and Urban Development (HUD), as well as various state agencies, in order to attempt to obtain grant funds. The Board finds that, within one year of the date of this Order, the Village of Basco should cease and desist from further violations of the Board's Water Pollution Control Regulations and the Act or have initiated and filed grant applications with the appropriate governmental agencies.

In evaluating this enforcement action, 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 that the Respondent, the Village of Basco, has violated Rule 901 of Chapter 3: Water Pollution Regulations and Section 12(f) of the Act. In mitigation, it is noted that most of the individuals who live in this small town are elderly, retired, on fixed incomes, and are relying on either Social Security or public aid benefits for economic survival. The financial resources of this community are severely limited. Because of the exceptional circumstances in this case; the presently cooperative attitude of the Village officials; and the pending application for the requisite NPDES Permit, the Board will assess no penalty against the Respondent for its past violations.

The Board has also considered the Respondent's previous failure to obtain an NPDES Permit in light of the decision by the U.S. Court of Appeals in Citizens for a Better Environment v. EPA, No. 78-1042, \_\_\_\_\_ F. 2d \_\_\_\_\_ (7th Cir. 1979), and finds that the Board has competent jurisdiction over the subject matter in this Complaint pursuant to Sections 11(b), 12(f) and 13(b) of the Act and Board regulations established thereunder.

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 has violated Rule 901 of Chapter 3: Water Pollution Regulations and Section 12(f) of the Act.
2. Within one year of the date of this Order, the Respondent shall cease and desist from all further violations of the Board's Water Pollution Regulations and the Act or have initiated and filed the requisite grant applications with the appropriate governmental agencies.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 24<sup>th</sup> day of May, 1979 by a vote of 5-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board