

ILLINOIS POLLUTION CONTROL BOARD  
October 17, 1974

ENVIRONMENTAL PROTECTION AGENCY )  
COMPLAINANT )  
 )  
 )  
v. ) PCB 74-191  
 )  
 )  
HAROLD MACKEY, ELLEN GARVER, HERBERT )  
MILLS, THOMAS SPRAGGON, ROBERT HOWE, )  
DOROTHY POTTER, AND PETER LENHAUSEN )  
RESPONDENTS )

MR. MARVIN BENN, ASSISTANT ATTORNEY GENERAL, in behalf of the Environmental Protection Agency  
MR. BRADLEY J. SCHWAGER, ATTORNEY, in behalf of Harold Mackey, Ellen Garver, and Robert Howe;  
MR. STEPHEN C. MYERS and MR. MICHAEL REGAN, ATTORNEYS, in behalf of Peter Lenhausen;  
MR. EDWARD X. RASHID, ATTORNEY, in behalf of Larry Courey

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

This case comes to the Board on complaint of the Environmental Protection Agency, dated May 24, 1974, charging the above-captioned respondents with violations of the Environmental Protection Act, Rules and Regulations of the Illinois Sanitary Water Board (hereinafter referred to as SWB) as follows:

In operation of a septic tank system which discharges into a common catch basin which discharges into a natural water course tributary to the LaSalle County Vermillion River:

1. Violated Section 12 (a) of the Environmental Protection Act by allowing discharge of contaminants into a natural water of the State of Illinois;
2. Violated Section 12 (d) of the Environmental Protection Act by allowing a discharge of contaminants onto land, thereby creating a water pollution hazard;
3. Violated Rule 1.03 (a) of SWB-14 by allowing a discharge which contained substances which settled to form putrescent and otherwise objectionable sludge deposits;
4. Violated Rule 1.03 (c) of SWB-14 by causing the waters of an unnamed tributary to the Vermillion River to contain unnatural color, odor, and turbidity;

5. Violated Rule 1.03 (d) of SWB-14 by causing waters of the unnamed tributary to the Vermillion River to contain substances which are toxic or harmful to humans, animals, plants, or aquatic life;
6. Violated Rule 1.07 (1) of SWB-14 by causing the waters of the unnamed tributary to the Vermillion River to contain substances that will settle to form putrescent or otherwise objectionable sludge deposits at the point at which water is withdrawn for use for agricultural or stock watering purposes;
7. Violated Rule 1.07 (3) of SWB-14 by causing the waters of the unnamed tributary to the Vermillion River to contain materials producing color, odor, or other conditions in such a degree as to create a nuisance at the point at which it is withdrawn for use for agricultural or stock watering purposes;
8. Violated Rule 1.07 (4) of SWB-14 by causing the waters of an unnamed tributary to the Vermillion River to contain substances in concentrations or contaminants which are toxic or harmful to human, animal, plant or aquatic life at the point at which water is withdrawn for use for agricultural or stock watering purposes;
9. Violated Rule 203 (a) and 402 of Chapter 3, Rules and Regulations of the Pollution Control Board, by causing or allowing waters of the unnamed tributary to the Vermillion River to contain unnatural sludge or bottom deposits, odor, and unnatural color and turbidity;
10. Violated Rules 205 (a) and 402 of Chapter 3 of the Board's Rules and Regulations by causing or allowing the water courses of the unnamed tributary to the Vermillion River to contain unnatural sludge or bottom deposits, odors, or unnatural color and turbidity;
11. Violated Rule 403 of Chapter 3 of the Board's Rules and Regulations by causing or allowing the effluent discharge from septic systems to the common catch basin to an unnamed tributary of the Vermillion River to contain septable solids, scum, and sludge, and color, odor, and turbidity above obvious levels;
12. Violated Rule 404 (a) of Chapter 3 of the Board's Rules and Regulations by allowing effluent discharge from septic tank systems and the common catch basin to an unnamed tributary to the Vermillion River to

contain BOD above the level of 30 mg/l;

- 13. Violated Rule 405 of Chapter 3 of the Board's Rules and Regulations by causing or allowing the effluent discharge from septic tanks and the common catch basin to the unnamed tributary to the Vermillion River, to contain fecal coliforms above the level of 400/100 ml.

No answer was filed by any of the Respondents.

Hearing was held July 19, 1974, in the LaSalle County Courthouse, Ottawa, Illinois.

This matter came to the attention of the Environmental Protection Agency when Ms. Dorothy Sedlock complained to the governor of the state in a letter that discharges to a drainage tile system to an unnamed waterway on her property were making offensive odors. R. 44.

In response to the complaint of Ms. Sedlock Thomas Rinkach, an environmental protection specialist with the Illinois Environmental Protection Agency, went to Ms. Sedlock's property on September 21, 1971, to investigate the situation. Upon arrival, Mr. Rinkach noted an obnoxious odor emanating from the drainage ditch. R. 46. Upon further inspection he noted black sludge of the type that is formed from sewage flowing through the ditch along with fungus growth that is typical of sewage discharges. These discharges seemed to be coming from drainage tiles that went into a collective catch basin on the Lenhausen property. R. 47. Samples of the water were taken with the following results:

BOD/153 mg/l	Suspended Solids - 1150 mg/l
Fecal coliform	910,000 per 100 milliliters
Total coliform	1,480,000 per 100 milliliters
pH	7.4

R. 48

A second visit was made by Mr. Rinkach to the site in question on November 23, 1971. At that time he noted that the sludge and odor conditions in the waterway were the same as noted on the first visit. At that time he conducted a smoke test. This test is to reveal who was hooked up into the drainage system. It was conducted by forcing smoke up the sewage system and noting which houses the smoke comes out of. This indicates that the house is hooked up into the drainage system. R. 50. The results of the smoke test showed that the houses of all the named respondents were in fact hooked up to this tile drainage system. R. 50.

A third visit was made on December 1, 1971. At that time the waterway was in the same condition. There was turbidity and black sludge. R. 52. Also Mr. Rinkach noted an obnoxious odor. R. 53.

The same conditions were noted on subsequent visits of March 9, 1972, September 26, 1973, and June 28, 1974. R. 59.

It is the unrebutted testimony of Mr. Rinkach that the unnamed waterway across Ms. Sedlock's property discharges into the Vermillion River. R. 60.

Mr. Rinkach further testified that the problem could probably be solved by disconnecting either the septic tanks themselves or the leach fields from the drainage tiles. R. 62. The Agency also recommends that all of the non-storm water drainage tiles be blocked before they enter the common catch basin on the Lenhausen property. R. 63. It should be further noted that Mr. Rinkach does not feel that the corrective measures taken by these respondents will correct the situation completely. R. 67. It is his personal opinion that there are still others hooked on to the system but unfortunately the smoke tests do not develop enough pressure to show them. R. 68. It should be further noted the smoke test only proves the septic system is in fact connected to the tile system, and is not an actual measure of pollution. R. 78. The witness did testify that in his considered technical opinion effluent from a septic tank will not meet current effluent requirements. R. 79.

All of the named respondents in this matter have admitted violations as charged in the complaint and have agreed to correct the discharges from their septic tanks and systems so as to end their contributions to pollution on the Sedlock property and the unnamed tributary (R. 14, 20, 23, 33, 37, 40), except for Herbert Mills, upon whom service has never been completed. Mr. Mills had sold the house in question and has never been served notice as a party in this action. The house was ultimately purchased by Mr. Larry Courey. Mr. Courey voluntarily appeared at hearing and on motion of the attorney general was made a party respondent to this action. Mr. Courey admits no violation but is willing to stipulate to a consent order that his property be brought into compliance with the Environmental Protection Act.

The Agency has recommended to the Board, both at hearing and in its closing Brief, that a fine be levied against all the named respondents except Mr. Courey in the amount of \$5.00. The Board notes that these are citizen respondents who may not have adequate knowledge of sewage disposal methods and as such, no fine shall be levied against Respondents.

The Board in making its determination and Order has taken under consideration the dictates of Section 33 (c) of the Environmental Protection Act.

Therefore the Board finds the six named Respondents in the original complaint in violation of the sections as charged.

The parties will be required to cease and desist violations of the Act and to either submit a plan of compliance to the Agency or proof that compliance is now achieved.

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

ORDER

IT IS THE ORDER of the Pollution Control Board that:

1. Harold Mackey, Dorothy Potter, Ellen Garver, Thomas Spraggon, Mrs. Peter Lenhausen, and Mr. Robert Howe have violated the Environmental Protection Act and the Rules of the Sanitary Water Board and the Rules of the Pollution Control Board as stated above.
2. Complaint is dismissed as to Herbert Mills.
3. Respondents shall file within 21 days of the entry of this Order either a plan of compliance or proof of compliance with all applicable rules and regulations with the Environmental Protection Agency at the following address:  

Environmental Protection Agency  
Division of Water Pollution Control  
5415 N. University Avenue  
Peoria, Illinois 61614
4. Order #3 shall apply with full force to Mr. Larry Courey.
5. Respondents shall cease and desist violating the charged sections of the Illinois Environmental Protection Act and the Rules and Regulations of the Sanitary Water Board and the Pollution Control Board within 40 days of the entry of this Order.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 17th day of October, 1974, by a vote of 5 to 0.

