

ILLINOIS POLLUTION CONTROL BOARD
February 7, 1980

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 79-3
)
VILLAGE OF RIDGWAY,)
a municipal corporation,)
)
Respondent.)

MR. STEPHEN GROSSMARK, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

HALE & SMITH, ATTORNEYS AT LAW (MR. JAMES H. SMITH, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the January 4, 1979 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). On March 26, 1979, the Agency filed a Motion for Leave to Amend Complaint and File Amended Complaint Instantly. The Board granted the Complainant's motion on April 12, 1979.

Count I of the Amended Complaint alleged that the Respondent, the Village of Ridgway, failed to submit its Discharge Monitoring Reports to the Agency as required by its NPDES Permit for the months of November, 1977 to December, 1978 in violation of Rule 901 of Chapter 3: Water Pollution Control Regulations ("Chapter 3") and Section 12(f) of the Illinois Environmental Protection Act ("Act"). Count II of the Amended Complaint alleged that, on specified dates between January 1, 1978 and December 30, 1978, the Respondent discharged effluents from its wastewater treatment facility (the "facility") which contained concentrations of five-day biochemical oxygen demand (BOD₅) and suspended solids in excess of the numerical standards prescribed in Chapter 3 and in the Respondent's NPDES Permit, in violation of Rules 401(c), 404(f) and 901 of the Board's Water Pollution Control Regulations and Sections 12(a) and 12(f) of the Act.

A hearing was held on May 17, 1979. The parties filed a Statement of Stipulated Settlement on May 22, 1979. On June 22, 1979, the Board entered an Interim Order which requested that the parties in this case submit, within 10 days, an Amended Statement of Stipulated Settlement which has a proposed stipulated penalty which is not "suspended" in nature. On July 5, 1979, the Agency

filed a Motion to Extend the Time to File the Statement of Stipulated Settlement to July 31, 1979 (the document being due on July 2, 1979). On July 12, 1979, the Board granted the Agency's Motion for an Extension of Time.

On July 20, 1979, the Agency filed a Motion for Reconsideration which requested that the Board reconsider its Interim Decision of June 22, 1979 pertaining to the issue of suspended penalties. On July 26, 1979, the Board denied the Agency's Motion for Reconsideration. On August 1, 1979, the Agency filed a Motion to Extend the Time to File the Statement of Stipulated Settlement (the document being due on July 31, 1979). On August 9, 1979, the Board granted the Agency's motion and gave the parties until September 24, 1979 to file their Amended Statement of Stipulated Settlement.

On September 21, 1979, the Agency filed another Motion for Extension of Time to File the Amended Statement of Stipulated Settlement. On October 4, 1979, the Board granted the Agency's Motion for Extension of Time and gave the parties until December 3, 1979 to file their Amended Statement of Stipulated Settlement. On November 27, 1979, the parties filed their Amended Statement of Stipulated Settlement.

The Village of Ridgway (the "Village") is a municipal corporation which is located in Gallatin County, Illinois. The Village owns and operates a wastewater treatment facility which discharges effluent into Crawford Creek. As a condition of its NPDES Permit No. IL 0020079, the Village of Ridgway is required to prepare monthly Discharge Monitoring Reports and submit these reports to the Agency on a biannual basis (on May 15th and November 15th of each year).

On June 8, 1978, the Agency notified the Village President and Board of Trustees by letter that the Village of Ridgway had failed to submit the required Discharge Monitoring Reports. (Stip. 4). However, the delinquent reports were not submitted until after the Agency commenced its action against the Respondent. Accordingly, it is stipulated by the parties that the previous failure to submit the requisite Discharge Monitoring Reports was in violation of the Respondent's NPDES Permit, and thus in violation of Rule 901 of Chapter 3: Water Pollution Control Regulations and Section 12(f) of the Act. (Stip. 4).

Additionally, grab samples taken by Agency investigators on various dates between January 24, 1978 and December 12, 1978 indicate that the effluent discharged by the Respondent's wastewater treatment facility contained concentrations of five-day biochemical oxygen demand (BOD₅) and suspended solids in excess of prescribed numerical standards. (Stip. 3-4). The parties have stipulated that the Respondent has thereby violated Rules 401(c), 404(f) and 901 of Chapter 3: Water Pollution Control Regulations and Sections 12(a) and 12(f) of the Act. (Stip. 4).

At the hearing, the Respondent's attorney stated that the Village of Ridgway has had particular problems with its wastewater treatment facility due to high flow which will require an on-going study and possibly additional equipment. (R. 5-6). Moreover, the Assistant Attorney General indicated that the Village has been very cooperative in trying to resolve this matter. (R. 7). Both the Agency and the Village of Ridgway have agreed that the Village must take all steps necessary to correct any continued effluent violations caused by high flow or other problems, and it is hoped that the Village's participation in the federally funded Agency grant program will correct continued effluent problems. (Stip. 5-6). The Respondent submitted its initial application for the grant program in January of 1979. Additionally, both parties believe that increased utilization of an Agency certified wastewater treatment plant operator will help to improve the effluent quality from the Respondent's facility. (Stip. 5).

The proposed settlement agreement provides that the Respondent will: (1) submit Discharge Monitoring Reports in a timely manner as required by its NPDES Permit; (2) promptly employ an Agency certified wastewater treatment plant operator to operate the Village's plant full-time or employ the certified operator part-time for at least two working days each week and have the certified operator direct the activities of an uncertified operator the rest of the working week; and (3) pay a stipulated penalty of \$750.00 (in three equal installments of \$250.00 each). (Stip. 7-8).

In evaluating this enforcement action and proposed settlement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Illinois Environmental Protection Act. The Board finds the stipulated agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Board finds that the Respondent, the Village of Ridgway, has violated Rules 401(c), 404(f), and 901 of Chapter 3: Water Pollution Control Regulations and Sections 12(a) and 12(f) of the Act. Accordingly, the Respondent shall, within 30 days of the date of this Board Order, employ an Agency certified wastewater treatment plant operator to operate the Village's facility full time or employ this certified operator to operate the plant part time (at least two working days each week) while directing the activities of an uncertified operator the rest of the working week. Moreover, the Respondent shall promptly submit the requisite Discharge Monitoring Reports as required by its NPDES Permit. Additionally, the Respondent shall pay the stipulated penalty of \$750.00 in three equal installments of \$250.00 each within 90 days, 180 days, and 270 days of the entry of the Board's Order in this case.

The Board has also considered the NPDES permit violations by the Village of Ridgway 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, Village of Ridgway, has violated Rules 401(c), 404(f), and 901 of Chapter 3: Water Pollution Control Regulations and Sections 12(a) and 12(f) of the Act.
2. Within 30 days of the date of this Order, the Respondent shall:
 - (a) employ an Agency certified wastewater treatment plant operator to operate the Village of Ridgway's wastewater treatment facility full time, or
 - (b) employ an Agency certified wastewater treatment plant operator to operate the plant part time (at least two working days each week) and have the certified operator direct the activities of an uncertified operator the rest of the working week.
3. The Respondent shall submit Discharge Monitoring Reports as required by its NPDES Permit No. IL 0020079.
4. The Respondent shall pay the stipulated penalty of \$750.00 in three equal installments of \$250.00 each within 90 days, 180 days, and 270 days of the date of this Order, payment to be made by certified check or money order to:

State of Illinois
Fiscal Services Division
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706
5. The Respondent shall comply with all the terms and conditions of the Amended Statement of Stipulated Settlement filed November 27, 1979, which is incorporated by reference as if fully set forth herein.

Chairman Dumelle dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 7th day of February, 1980 by a vote of 3-1.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board