

ILLINOIS POLLUTION CONTROL BOARD  
February 7, 1985

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 84-79  
 )  
RUSSELL G. WAKE, )  
 )  
Respondent. )

MR. ALLEN SAMELSON, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

OPINION AND ORDER OF THE BOARD (by J. Theodore Meyer):

This matter comes before the Board on a June 20, 1984 complaint filed by the Illinois Environmental Protection Agency (Agency) which alleged that, intermittently, from approximately June, 1982 until June 20, 1984, the Respondent improperly operated his livestock management facility in violation of 35 Ill. Adm. Code 304.106 (offensive discharges), 304.120(c) (deoxygenating wastes and suspended solids), 302.203 (unnatural sludge), 302.212(a) (ammonia nitrogen), 501.403(b) (surface runoff containment), 501.402(c) (livestock odor abatement) and in violation of Section 9 and subsections 12(a) and 12(d) of the Illinois Environmental Protection Act (Act).

A hearing was held on November 15, 1984. The Respondent elected not to be present having entered into a proposed settlement agreement resolving the violations apparently to his satisfaction. At hearing, the Complainant summarized the proposed settlement and a properly signed copy of the Stipulation and Proposal for Settlement was incorporated into the record.

The Respondent, Mr. Russell G. Wake (Wake), kept and raised livestock, specifically swine, on property adjacent to the Village of Clear Lake in Sangamon County, Illinois. This facility constitutes a new livestock management facility within the meaning of 35 Ill. Adm. Code 501.101 et seq. (Agriculture Related Pollution). An unnamed stream originates at the east side of the Wake facility which is a tributary to Spring Creek.

The Complaint contains five counts. The first two counts allege that Respondent allowed or caused the discharge of effluent from his facility which was of unnatural color and turbidity in violation of Section 12(a) of the Act and Sections 304.106 and 302.203 of the Water Pollution Regulations. The effluent was also alleged to contain five day biochemical oxygen

demand (BOD) in excess of 50 mg/l and suspended solids (SS) in excess of 60 mg/l. Effluents, such as this one, with dilution ratios of less than five to one may not contain more than 10 mg/l BOD and 12 mg/l SS. 35 Ill. Adm. Code 304.120(c). In addition, the effluent exceeded the ammonia nitrogen limitations of 15 mg/l contained in Section 302.212(a).

The third count charges Respondent with failing to prevent excessive outside surface runoff waters and with failing to adequately direct runoff to an appropriate disposal, holding or storage area in violation of Section 501.403(b). As a result contaminants were allegedly deposited so as to create a water pollution hazard in violation of subsections 12(a) and 12(d) of the Act.

The fourth count alleged that Respondent had discharged odors and other contaminants in sufficient quantities and of such characteristics and duration so as to unreasonably interfere with the enjoyment of life or property in violation of Section 9 of the Act.

Finally, Respondent allegedly operated the facility within 50 yards of populated residential areas and failed to practice adequate odor control methods as required by Section 501.402(c).

The proposed settlement agreement provides that the Respondent admits the violations alleged. It is stipulated that Respondent has terminated the use of this property as a livestock management facility and thus has ceased and desisted from any further violations. The Respondent also agrees that no livestock management facility will be established on this property in the future unless: 1) adequate and effective odor and water pollution control measures are implemented and 2) the Agency is first notified in writing and written approval is obtained for such air and water pollution control measures. The Respondent also agrees to pay a stipulated penalty of six hundred dollars (\$600.00) within ten days of this order.

In evaluating this enforcement action and proposed settlement agreement, the Board has taken into consideration all of the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act and finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180.

The Respondent is hereby found to have violated Sections 9 and subsections 12(a) and 12(d) of the Illinois Environmental Protection Act and 35 Ill. Adm. Code 304.106, 304.120(c), 302.203, 302.212(a), 501.403(b) and 501.402(c). The Respondent is ordered to comply with the terms and the conditions of the proposed settlement agreement and to pay the stipulated penalty of six hundred dollars (\$600.00).

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, Russell G. Wake, has violated 35 Ill. Code 304.106, 304.120(c), 302.203, 302.212(a), 501.403(b) and 501.402(c) and Section 9 and subsections 12(a) and 12(d) of the Illinois Environmental Protection Act.
2. Within 10 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 six hundred dollars (\$600.00) which is to be sent to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
2200 Churchill Road  
Springfield, Illinois 61706

3. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on December 13, 1984, which is incorporated by reference as if fully set forth herein.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board hereby certify that the above Order was adopted on the 7<sup>th</sup> day of February, 1985 by a vote of 5-0.

  
\_\_\_\_\_  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board