

ILLINOIS POLLUTION CONTROL BOARD

July 8, 1971

ENVIRONMENTAL PROTECTION AGENCY)

v.)

71-26

CITY OF EAST ST. LOUIS)

Mr. John W. Leskera, Special Assistant Attorney General, for the Agency.

Mr. Robert F. Godfrey and Mr. Robert Mays, East St. Louis, ILL., for the

Opinion of the Board (by Mr. Currie):

Respondent.

East St. Louis operates a primary sewage treatment plant consisting of four sedimentation tanks, whose effluent goes to the Mississippi River. The Agency **complained** that the City had discharged inadequately treated sewage and that the plant was not under the supervision of a properly certified operator, and proved it. We order the City to cease these violations and impose a nominal penalty.

The uncontradicted evidence is that no operator had the certification required by the regulations (R. 8-20 ; Rules & Regulations SWB- 2). That this violation was no mere technicality is shown by the deplorable operation of the plant. Uncontested testimony was that on numerous occasions during the past year no more than two of the four tanks were in operation (R. 35,46,54,55, 103,106,108-10, 113,115), so that those used were grossly overloaded (R. 43,98), and that more than once the raw sewage coming to the plant was bypassed directly to the river without any semblance of treatment (R. 34-35,49,51,115-16). No explanation was offered for this shocking behavior. The regulations (SWB-13, Rule 301, Par. 10 (b)), require substantially complete removal of settleable solids, and the failure to use the existing facilities caused repeated violations of this requirement. Plant records show an average settleables removal of only 74.6% when more than 90% removal is expected (R. 65-66,67,69). There was testimony that one of the tanks is somewhat broken (R. 115).

The Agency also attempted to show that the City's effluent was excessively acidic, and the evidence does indicate a low pH (R. 63-64,69,77). But there was nothing in the complaint about acid, and we do not believe the charge of inadequate sewage treatment gave fair warning that acid was an issue. Acid is not the normal result of inadequate sewage treatment. Here it comes from an industrial discharge (R. 78), and the City has commendably taken steps to have the acid treated before it is placed in the sewers by September 1, 1971 (R.123). The industrial discharger, of course, could be made a party if a complaint were to be filed on the acid issue, But the present complaint does not support the acid proof. Cf. EPA v. Commonwealth Edison Co., #70-4 (Feb. 17, 1971).

We shall order immediate correction of the violations found. Moreover, these offenses indicate a shocking inattention to the

obligations of municipal employees charged with important responsibility for protecting the public health. We cannot dispense with money penalties under these circumstances. The individuals responsible were not made parties, so they cannot be ordered to pay. The City must pay to ensure better performance in the future. But any violation of this order will subject any responsible individual as well as the City itself to the risk of money penalties.

The Agency seeks a \$6000 penalty, which is quite small in relation to the seriousness of the violations. But East St. Louis is a poverty-stricken city, struggling with staggering financial burdens; it has a brand-new city administration that has pledged itself to a sincere effort at abating pollution (R. 121-26). We think in light of these facts the penalty should be set at a nominal \$200 to leave the City needed funds to correct its pollution problems.

We add that our new regulation #R 70-3 have accelerated the date for secondary treatment along the Mississippi, and that East St. Louis must move very soon to improve its facilities. Primary treatment, even when the plant is operating properly, is quite insufficient to protect the receiving stream. We urge the City to comply fully with this important requirement.

ORDER

1. The City of East St. Louis shall by September 1, 1971 place its sewage treatment plant under the supervision of an operator certified as required by the regulations.
2. The City of East St. Louis shall by August 15, 1971 repair the broken sedimentation tank.
3. The City of East St. Louis shall immediately begin proper operation of its sewage treatment plant and shall immediately cease and desist from the discharge of inadequately treated sewage.
4. The City of East St. Louis shall by August 15, 1971 pay to the State of Illinois the sum of \$200 as a penalty for the violations found in the Board's opinion.
5. The City of East St. Louis shall by September 1, 1971 file with the Agency and with the Board a report indicating its compliance with this order.

I, Regina E. Ryan, Clerk of the Pollution Control Board certify that the Board adopted the above opinion this 8 day of July, 1971.

