

ILLINOIS POLLUTION CONTROL BOARD
August 14, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 74-431
)
)
 CITY OF MOUNT OLIVE, a municipal)
 corporation,)
)
 Respondent.)

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

This enforcement action was filed November 19, 1974. A four-count Complaint charges the City of Mount Olive with numerous violations of the Environmental Protection Act, Sanitary Water Board Regulations (SWB) and PCB Regulations, Chapter 3 (Water Pollution Regulations).

The City of Mount Olive owns and operates two sewage treatment plants known as the North and South plants. The North Plant is located proximate to Sugar Creek which is tributary to Cahokia Creek; Cahokia Creek is tributary to the Mississippi River. The South plant is located proximate to an unnamed branch of Silver Creek; Silver Creek is tributary to the Kaskaskia River. The complaint charges that the City has operated these plants so as to cause water pollution in violation of Section 12(a) of the Environmental Protection Act. In addition, the following regulations are alleged to have been violated:

Count One: Violations of the old Rules and Regulations of the Illinois Sanitary Water Board (SWB), with respect to the North plant, specifically:

<u>Regulation</u>	<u>Contaminant or Coverage</u>
SWB-14 1.03(a)	bottom deposits
1.03(b)	floating debris, oil, scum
1.03(c)	color, odor
1.07(1)	bottom deposits where water is withdrawn for agricultural or stock purposes
1.07(2)	floating debris, oil, scum where water is withdrawn for agricultural or stock purposes

<u>Regulation</u>	<u>Contaminant or Coverage</u>
1.07(3)	color, odor where water is withdrawn for agricultural or stock purposes
1.08-10(b)(1)	settleable solids
1.08-10(b)(2)	floating debris, oil, scum
1.08-10(b)(3)	color, odor
SWB-6 1.02(a), 1.03	failure to submit monthly reports
SWB-2 1.02, 5.01	failure to have a certified operator

SWB-14 remained in effect from July 1, 1970 to April 15, 1972.
SWB-6 remained effective from April, 1971 until March, 1972.
SWB-2 was in effect until July 26, 1973. Specific dates of violation were alleged.

Count Two: Violations of Section 12(a) of the Act and the current PCB Water Regulations, with respect to the North plant. Specific dates were alleged. Violations alleged are as follows:

203(a), 402	general standards
203(f)	ammonia nitrogen (as N)
403	offensive discharges
404(a)	BOD ₅ , suspended solids
405	fecal coliform
408(a)	mercury
501(a)	reporting requirements
601(a)	systems reliability
1201, 1202	failure to have a certified operator

Count Three: The Agency realleged the same violations of Count One, except for Sections 1.07(i)-(3), with respect to the South treatment plant. Specific dates of violation were alleged.

Count Four: The Agency realleged the same violations of Count Two, with respect to the South treatment plant. Specific dates of violation were cited. All violations as referred to by the Agency were alleged to be of a continuous nature.

STIPULATION OF FACTS

In lieu of testimony, the parties entered into a Stipulation of Facts, filed with the Board on March 18, 1975. It consists of four major parts. First, Mount Olive admits to having violated the Act and Regulations as alleged in the Complaint. Second, it

sets forth mitigating factors tending to show why the city has been unable to achieve compliance with the appropriate regulations. Third, it contains an agreement that a Mr. Abraham Loudermilk would be called as a witness on behalf of the Agency and would testify as to what improvements must be made in the two sewage treatment plants, including an appropriate time schedule for compliance. Finally, it sets out a compliance program, and a time schedule and agrees to a performance bond of \$5,000. No proposal for settlement was offered.

The mitigating factors cited in the Stipulation set forth the city's efforts to improve the treatment plants. In November, 1973 (prior to the filing of the complaint in this cause and subsequent to a change in city administration) Mount Olive retained a different engineering firm and commenced on a program of rehabilitation and improvement. Contracts were entered into to completely clean out the South plant Imhoff Tank and to repair both plants' trickling filters. Plumbing was to be restored and pumps at the North plant recircuited.

The stipulation next enumerates the difficulties incurred in accomplishing these improvements. Wet weather delayed the operation to pump the sludge until May, 1974. The contractor then informed the city it had no place to dispose of the sludge. A petition for variance filed on May 10, 1974 was dismissed without prejudice as inadequate. PCB 74-183, 12 PCB 403 (May 23, 1974). An application for a permit to spread sludge on city-owned land, filed on May 31, 1975, was granted on July 10, 1974. Meanwhile, the city's lessee had planted crops on the disposal site which could not be harvested until October. As a result, pumping of the Imhoff Tank was not completed until December 4, 1974.

A contract to repair the South plant Imhoff Tank was approved on December 4, 1973. Repairs were completed January 10, 1975. An order to obtain parts to repair the trickling systems was placed on April 8, 1974, with delivery by June 21, 1974. After delivery on November 19, 1974, the plumbing contractor indicated additional parts were necessary. The supplier, however, had discontinued carrying the required additional parts. The city located a new supplier on December 19, 1974, but felt its quote of \$7,988.95 for new trickling filter arms was too expensive. The city then decided to fabricate the arms with PVC pipe, at one-half the cost, and to order a new set of nozzles and fittings. All repairs for the trickling filter distributor assembly were finally completed by February 28, 1975.

Other progress enumerated by the stipulation includes:

1. Order and receipt of flow measuring equipment for reporting requirements;
2. Repair of South lift station's control system (completed July 17, 1974);
3. The Operator was granted a Class 4 Operating License and he is continuing his education for a higher classification;
4. The circuitry of the Yeoman's Ejector pumps at the North plant has been corrected;
5. The sludge drying beds are currently being used at both plants, indicating that the Imhoff and Spirahoff Tanks are on a schedule of sludge removal. The repair of the outlets of some of these beds awaits good weather;
6. A wier board, recommended by the Agency, has been installed on the South plant intake structure;
7. General appearance has been improved. Painting and repairs to a catwalk structure above the circular Imhoff at the North plant awaits better weather. Installation of chlorination equipment awaits completion of trickling filter repairs.

The Agency admits that the city appears to have taken reasonable steps available to it to carry out the program originally envisioned in November, 1973. The stipulation further indicates that the city will be helpless to do much more than complete this program without grant money for the expansion of the treatment facilities and an overhaul of the distribution system. Even after the present facilities are brought up to design capacity, raw sewage will still pass through the distribution system discharged at the bypass points during periods of moderate to heavy rainfall because of the limited capacity of the present plants, and the original interconnection of storm sewers and sanitary sewers serving the South plant.

The compliance program and time schedule set out in the stipulation is too lengthy to include in full here. In sum, it provides that Mount Olive:

- a. Obtain equipment to measure BOD and suspended solids;
- b. Provide a Class III certified operator, or provide the current operator with the training necessary to be so certified within seven months;

- c. Institute within 30 days a program of protective maintenance;
- d. Undertake monitoring of effluent for BOD and suspended solids;
- e. Immediately eliminate the safety hazard on the Spirahoff walkway at the North plant;
- f. Continue to repair and refurbish the sludge drying beds within six months.
- g. Eliminate the rooted plants in the concrete wall retaining the trickling filter media, and rehabilitate the wall;
- h. Repair influent channels to allow maximum flow within six months;
- i. Restore the trickling filter media to an operable condition within two months.

On April 10, 1975 the Board rejected the above Stipulation as inadequate in that it failed to set forth the quantities of contaminants discharged, the effect of the receiving waters, or the City's attempts to obtain a sewage treatment grant. The parties filed a Supplemental Stipulation of Facts on July 1, 1975, addressing these issues. It indicated that Mount Olive had received priority positions of 228 and 251 for grant status. A step 1 grant can be processed as soon as the plan of study -- submitted March 14, 1975 -- is approved. There is a possibility of delay in that the Facility Planning Area contains twelve governmental entities. The Agency Planning Section is working with all communities in an attempt to designate a lead agency.

The Supplemental Stipulation also contained effluent and water quality data for dates ranging from September 28, 1971 through April 30, 1974. These data -- too numerous to include in this Opinion -- confirm the allegations and Stipulation. Although summaries of sampling data for one of the latest dates available, April 9, 1974, show that proper levels were met for some parameters, all of the rules cited in the Complaint were exceeded in at least some of the samplings available. Violations were particularly severe, in the case of both treatment plants, for measurements of raw influent which was bypassing the plants. Also of concern are the results of a sample taken July 25, 1972, which shows mercury concentrations of 6.4 ppb and 0.8 ppb in the North and South plant effluent, respectively. An Agency memorandum attached to these data explains that at one time the trickling filter rotary distribution center column seals were mercury.

This mercury was evidently lost into the filter media as a result of badly leaking seals.

In addition to the effluent data, results of biological samples, taken April 29, 30, 1974, were provided. While both streams tributary to the plants were balanced above the outfalls, they were unbalanced and semi-polluted downstream. Observations on April 9, 1974 indicated that both streams were gray, with sludge deposits, fungi and tissue paper present.

PUBLIC HEARING

A public hearing on this matter was held on March 6, 1975. The City explained that it had no justification or excuse for the violations, but that the stipulation was intended to show that it had undertaken a program to cure the deficiencies well in advance of the enforcement proceeding (R. 6). The remainder of the hearing was for the purpose of introducing an exhibit summarizing the funds spent to date on the Mount Olive sewer system. The Mayor of the City identified and explained these expenses. The exhibit shows total expenditures, dating back to 1961, of over \$21,000, not including some equipment not yet delivered or paid for. This breaks down as follows:

<u>FUND</u>	<u>DATE</u>	<u>AMOUNT</u>
Sewer revenue system:	pre May, 1973	\$ 7,554.18
Sewer revenue system:	post May, 1973	6,689.38
Federal revenue sharing:	post January, 1974	6,376.14
Improvement fund:	post October, 1973	480.86

Some of these expenditures were undertaken previous to July 1, 1970 -- the first date of violation alleged in the Complaint, and as such are relevant only in so far as they indicate a willingness to maintain the municipality's sewer system. More importantly, the majority of the expenditures are for the period following the private engineering firm's November, 1973 recommendation, yet prior to the filing of the instant complaint.

CIVIL PENALTY

On the basis of the Stipulation of Facts entered into by the parties it is clear that violations of all the Rules and Regulations as alleged in the Complaint occurred. There remains the issue of how much of a civil penalty should be assessed for these violations. The number, length, and severity of violations that occurred were substantial. The threat to public health resulting from the inadequate treatment plant facilities was, and will remain, considerable until the facilities are brought fully within compliance with the regulations.

The Stipulation best sums up the way in which the treatment plants were operated when it states that an inspection undertaken by the City's engineering firm in November, 1973, revealed evidence of years of neglect at the existing facilities. At the public hearing, Mount Olive admitted that there was no justification or excuse for these violations. The fact that efforts were subsequently undertaken to repair the plants, and that Mount Olive is now willing to institute a compliance program and time schedule, as set out in the Stipulation, indicate that technical practicability and the economic reasonableness of reducing discharges are not major barriers here. Furthermore, the Board has consistently held that the social and economic value of an im- properly operated sewage treatment plant are reduced and that such plants are patently unsuited to any area. EPA v. Township Public Utility, PCB 74-421 (July 10, 1975); EPA v. Wheaton Sanitary District, PCB 74-351 (July 6, 1975).

On the other hand, Mount Olive has offered considerable evidence by way of mitigation. The City administration seems now to be committed to the upgrading of the treatment plants. Action was taken to retain an engineering firm before the Complaint in this matter was filed. Funds have been appropriated, repairs have been implemented, steps have been taken to carry out a compliance plan, and grant money has been applied for. In light of these considerations and our statutory obligations under Section 33(c) of the Act, the Board finds that \$300 is an appropriate penalty for the violations found herein. This penalty is assessed not as a punishment but rather as an aid to the enforce- ment of the Act. In addition, we will require Mount Olive to carry out expeditiously all of the steps of its compliance program, as detailed in the Stipulation and summarized in this Opinion, and to cooperate with the other governmental entities in its Facility Planning Area so as to expedite its Step 1 treatment plant grant.

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

ORDER


1. The City of Mount Olive shall pay a penalty of \$300 for its violations of the Act, SWB rules and Water Regulations found herein. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

2. The City of Mount Olive shall carry out expeditiously all steps of its compliance program set forth in the Stipulation of Facts. It shall further cooperate with other governmental entities in its Facility Planning Area so as to expedite its Step 1 treatment plant grant.

3. The City of Mount Olive shall provide a performance bond in the amount of \$5,000, in terms satisfactory to the Agency, to be tendered to the Agency within thirty (30) days of the receipt of this Order.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 14th day of August, 1975 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board