

ILLINOIS POLLUTION CONTROL BOARD

September 5, 1974

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 vs.) PCB 71-25
)
 CITY OF MARION,)
)
 Respondent.)
)
 CITY OF MARION,)
)
 Petitioner,)
)
 vs.) PCB 71-225
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

Larry R. Eaton, Assistant Attorney General for the EPA
William J. Novick, Attorney for City of Marion

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

In compliance with an order of the Fifth District Appellate Court, this Board on January 24, 1974 vacated certain paragraphs of previous Board Orders and directed the parties to conduct a further public hearing to determine:

- a) whether the City of Marion was in compliance with the Water Pollution Control Regulations,
- b) manner in which the new Water Pollution Control Regulations applied to Marion, and
- c) what steps, if any, are necessary for Marion to achieve compliance with the Water Pollution Control Regulations.

At the public hearing the parties reported that they had reached agreement on the issues. A Stipulation and Proposed Order were subsequently submitted to this Board. We have received no objection to this document and shall decide the cases from the facts submitted.

Chronologically the history of these two cases is as follows:

- February 21, 1971 - Agency Complaint (PCB 71-25) citing City of Marion with violations of Section 12(a) of the Environmental Protection Act and Rules 1.08(10)(6) and 1.08(12) of SWB-14.
- May 12, 1971 - Board rejects proposed settlement on the ground that it had not been approved by the Agency.
- June 30, 1971 - Public hearing conducted on Agency complaint.
- July 2, 1971 - Promulgation of Federal Regulations on sewage plant construction grant eligibility.
- July 30, 1971 - Marion files Petition for Variance (PCB 71-225) seeking delays in previously agreed to compliance schedule.
- October 16, 1971 - Public hearing conducted on Marion's various petition.
- October 28, 1971 - Board adopts Opinion and Order on consolidated cases.
- November 30, 1971 - Marion petitions Fifth District Appellate Court for review of Board decision.
- March 7, 1972 - Board adopts new Water Pollution Control Regulations.
- March 14, 1972 - Board grants Marion's motion for stay of Board Order relative to monetary penalty only.
- October 5, 1972 - Marion submits information showing a 2.5 MGD activated sludge treatment plant at existing trickling filter plant to be most cost-effective solution.
- October 18, 1972 - Marion files petition with the Appellate Court to set aside Board Order citing provisions of new Water Pollution Control Regulations differing from prior SWB Regulations.

- October 18, 1972 - Congress enacts Federal Water Quality Act Amendments of 1972 (PL92-500).
- June 29, 1973 - U. S. EPA approves Water Quality Management Plan for Big Muddy Basin which included City of Marion.
- July 19, 1973 - Board adopts Rule 409 extending the December 31, 1973 compliance deadline of Rule 404(f) to December 31, 1974.
- November 1, 1973 - Fifth District Appellate Court remands case to Board for further hearings regarding Marion's position relative to the new Water Pollution Control Regulations.
- January 24, 1974 - Board enters Order pursuant to Appellate Court remand.

City of Marion operates three lagoon systems and a trickling filter treatment plant to treat domestic waste from an estimated 12,000 people. Effluent from the trickling filter plant is chlorinated prior to discharge to West End Creek, a tributary of Crab Orchard Creek. A good secondary effluent is maintained during average dry weather flows of 500,000 to 800,000 gallons per day. The hydraulic capacity of the plant is 1,300,000 gallons per day. During wet weather, however, as much as 11 million to 13 million gallons per day reach the plant causing enormous quantities of untreated sewage to be bypassed directly to West End Creek.

Federal Regulations promulgated in July 1971 provided that no project would be eligible in FY 1972 or thereafter for grant reimbursement unless such project was in accordance with an Interim Water Quality Management Plan developed in accordance with Federal guidelines and approved by the U. S. EPA. Under these Regulations, Illinois EPA prepared the Interim Water Quality Management Plan for the Big Muddy River Basin which included the City of Marion.

During the preparation of the Big Muddy River Basin plan the Illinois Agency determined that Marion's three lagoon systems were not capable of meeting the effluent requirements of 404(f) without upgrading. Also, if the trickling filter treatment plant were upgraded without consideration of the cost-effectiveness of consolidation of all sewage treatment facilities, the Agency felt that the City would be precluded from construction grant assistance. City of Marion was advised of these determinations in June 1972. On October 5, 1972 Marion submitted information which demonstrated that a consolidated 2.5 MGD activated sludge treatment plant constructed at the existing trickling filter plant site was the most cost-effective solution.

Upon receiving Marion's proposal in December 1972 the Agency finalized the Marion portion of the Interim Water Quality Management Plan for the Big Muddy River Basin. The complete plan for the entire Basin was approved by the U. S. EPA in June 1972.

When the Board's prior Orders were entered, Marion was eligible for State and Federal monies for construction of advanced treatment facilities and excess sewage flow facilities. Marion applied for and was granted a permit for such project, and, in addition, applied for and was granted a permit for replacement of 1/2 mile of interceptor sewer which was subject to excessive infiltration. The estimated cost for Marion to achieve compliance at that time was about \$600,000.

However, the President impounded construction grant funds for FY 1973, and PL92-500 amended the reimbursement provisions of Federal law in such manner as to inhibit the start of local projects prior to Federal approval. This completely changed the picture for Marion and numerous other Illinois communities.

Marion now proposes to construct a single advanced process activated sludge treatment plant at a cost of about \$2,900,000. Under the proposed schedule outlined in the Stipulation, all preliminary planning, analysis, engineering specifications and final plans would be completed by September 1, 1974 with actual construction to commence on June 1, 1975. A completion date of August 30, 1976 is anticipated.

The proposed project is designed to meet all requirements of the Water Pollution Control Regulations and will have the capability of providing treatment of sewage from the adjacent communities of Spillerton, White Ash, Crab Orchard, Pittsburgh and Creal Springs. These neighboring communities presently rely on septic tanks and outdoor facilities for domestic waste water disposal in an area unsuited for septic tank operation.

Marion's estimated grant assistance from the U. S. EPA amounts to \$2,230,000. This means that Marion is committed to a larger expenditure of local funds for this project than had been required to meet the requirements of SWB-14 under our prior Orders. Such additional commitment is partially due to inflation but to a larger extent reflects the cost of an advanced system designed to meet Marion's requirements for many years rather than an interim solution as originally proposed.

Based on the entire record of these two cases, the Board believes the parties have presented a commendable program for achieving compliance with the law. We accept the program as proposed and shall order Marion to fully implement the project as described in the Stipulation.

Two matters require a brief statement to complete this record. The first matter concerns a \$100 penalty imposed in our prior Order for failure to meet the requirements of SWB-14 with respect to submission of plans and award of construction contracts. Upon imposing the penalty the Board stated:

"...We cannot let the serious violation of the important interim deadline pass altogether. But Marion's exemplary response to the filing of the Complaint, its excellent record for operation of its existing plant, and the critical fact that its error is not expected to result in continued pollution greatly mitigate the offense".

At the public hearing the Agency expressed the opinion that penalty is no longer warranted "under the facts of the case at this time". The Board agrees, particularly in view of the scope and complexity of the project we approve today. The financial burden assumed by Marion and the manner in which Marion has agreed to solve its water pollution problem, in our opinion, warrants the exclusion of any penalty.

Finally, our interpretation of the proposal is that Marion would, by our acceptance of the program, be afforded the legal protection of variance although such is not expressly stated in the proposed order. In order to preclude any possible misunderstanding of our intent in approving this program, we shall explicitly provide such protection.

ORDER

It is the Order of the Pollution Control Board that:

1. City of Marion is hereby ordered to install and operate upgraded improved sewage treatment facilities including modification of the existing trickling filter facility to a 2.5 MGD advanced process activated sludge treatment plant in full accordance with the schedule contained in the Joint Stipulation.
2. Until such treatment plant shall be placed into operation, City of Marion shall operate its existing waste treatment facilities in such manner that no effluent shall exceed 25 mg/l BOD or 25 mg/l suspended solids except that wet weather flows in excess of 1.3 MGD shall not be subject to this requirement. Chlorine residual in the treated effluent shall be maintained between 0.5 mg/l and 1.0 mg/l during this interim period.

3. City of Marion shall provide suitable sampling taps for all effluent and bypass lines in accordance with the provisions of Rule 502 of the Water Pollution Control Regulations within 30 days of receipt of this Order.
4. Paragraph 3 of the Board Order dated October 28, 1971 is hereby stricken.
5. City of Marion is granted variance from Rule 404(f) of the Water Pollution Control Regulations until August 28, 1975.
6. City of Marion shall submit monthly progress reports to the Environmental Protection Agency. Said progress reports shall commence on September 28, 1974 and shall provide details of Petitioner's progress toward completion of the new waste treatment facilities.

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

Christan L. Moffett