

ILLINOIS POLLUTION CONTROL BOARD

September 1, 1977

ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 77-53
)
CITY OF EAST ST. LOUIS,)
)
Respondent.)

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

I. LEGAL BACKGROUND

This matter comes before the Board upon the February 17, 1977 Complaint of the Environmental Protection Agency (Agency) charging the City of East St. Louis (City) with violation of Rules 403, 601, and 1201 of Chapter 3: Water Pollution and Section 12(a) of the Environmental Protection Act (Act) and violation of Rule 951(a) of Chapter 3 and Section 12(b) of the Act. A hearing was held on July 20, 1977.

II. FACTUAL BACKGROUND

In the Spring of 1975, a sewer break occurred near State and 66th Streets in East St. Louis, Illinois. The break has not been permanently repaired. Instead, the City bypass-pumped raw sewage into Harding Ditch until approximately June 19, 1975. Since that date, raw sewage has been bypass-pumped into a force main which discharges into a downstream manhole. This pumping system was installed and operated without reliability safeguards such as shelter, burial of the force main below the frost line, a backup pump, and an alarm system. This system has not eliminated discharges of raw sewage into waters of the State as the pump has malfunctioned on several occasions, including June, 1976 and February, 1977, causing raw sewage to flow into storm sewers and then pumped into Harding Ditch. Construction and operating permits from the Agency concerning this pumping system were not obtained.

The City owns and operates an adequate sewage treatment plant (STP). At no time since May, 1975 has the plant been operated by a certified Class 1 operator.

III. WATER VIOLATIONS

The Board finds the City in violation of rules 403, 601, and 1201 of Chapter 3: Water Pollution and Section 12(a) of the Act. The discharge of raw sewage into Harding Ditch from June 19, 1975 up to February 17, 1977 is in violation of Rule 403. Installation and operation of the pumping system without reliability safeguards from on or about June 19, 1975 up to February 17, 1977 is in violation of Rule 601. Finally, operation of a STP serving a population of 50,000 - 60,000 by someone other than a certified Class 1 operator from on or about May 9, 1975 up to February 17, 1977 is in violation of Rule 1201. The Board has considered the Section 33(c) factors in finding, and assessing a penalty for, violations of Section 12(a) of the Act. The sewer and STP have social and economic value and are suitable to the area in which they are located. The extent of injury to the health and general welfare of the people is substantial, as raw sewage is being discharged into waters of the state and operation of a STP without a qualified operator could lead to the discharge of inadequately treated sewage. Abatement is technologically feasible. We reject the City's contention that construction of Interstate 255 would make permanent repair of the existing sewer and proper burial of the force main not practical because the additional fill over these lines by the highway could be avoided by their relocation. Abatement is also economically reasonable, despite the City's financial plight, because installation of reliability safeguards would have been relatively inexpensive in comparison with the total cost of the pumping system and because the City failed to make use of Board variance procedures to avoid compliance on grounds of severe financial hardship. However, because the Board believes that public monies are better spent to achieve compliance, no money penalty will be imposed for these violations.

IV. PERMIT VIOLATION

The City constructed and operated the pumping system without obtaining a construction permit from the Agency. The Agency did not require this permit until the pumping system had "taken on a certain degree of permanency" (Ex. 8), but notified the City that the permit must be obtained on or about June 30, 1976. Any waiver of the permit requirement expired on that date, especially since the City was aware from June, 1975 of what improvements to the pumping system were necessary in order to obtain the Construction Permit and that a permit was not required only so long as the pumping system was a temporary measure. We find the City in violation of Rule 951(a) Chapter 3: Water Pollution and Section 12(b) of the Act. The Board has considered the Section 33(c) factors in assessing a penalty for this violation. Based on these factors, no money penalty will be imposed.

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This Opinion and Order constitute the findings of fact and conclusions of law of the Board.


ORDER

It is the Order of the Pollution Control Board that:

1. The City is in violation of Rules 403, 601, and 1201 of Chapter 3: Water Pollution and Section 12(a) of the Act and in violation of Rule 951(a) of Chapter 3 and Section 12(b) of the Act.
2. The City is to cease and desist from all violations of the Act and Regulations found herein, or obtain a variance therefrom, within six months of the date of this Order.
3. The City shall apply for all necessary permits from the Agency within 30 days of the date of this Order.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 15th day of September, 1977, by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board

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