ILLINOIS POLLUTION CONTROL BOARD
October 13, 1977

ENVIRONMENTAL PROTECTION AGENCY,	)	
Complainant,	)	
v.	)	PCB 76-150
KANKAKEE UTILITIES CORPORATION,	)	
Respondent.	)	

MS. DEBORAH SENN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT.

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

This case comes before the Board on a complaint alleging violations of Section 12(a) of the Illinois Environmental Protection Act (the Act) and Rules 403, 405, and 602(b) of Chapter 3: Water Pollution of the Board's Rules and Regulations. A hearing was held on June 22, 1977 in the City Council Chambers in Kankakee, Illinois.

Throughout these proceedings Respondent has never answered any of the Agency's pleadings. At the hearing a member of the Respondent's Board of Directors asked that the matter be continued. The Hearing Officer properly denied this request since there had been no indication before the hearing that a continuance was needed. When this director was asked if he would be acting as the Respondent's representative, he declined and later left the hearing and did not return. The Board finds that the Respondent is in default under Rule 327 of the Procedural Rules. Consequently, this case shall be judged solely on the basis of the Agency's pleadings and the evidence introduced at the hearing.

On August 18, 1976 the Agency served the Respondent with a Request for Admission of Fact. This request was never answered so all of the requested admissions shall be deemed admitted pursuant to Rule 314(c) of the Procedural Rules. These admissions and the exhibits admitted at the hearing establish that Respondent violated Rule 403 of Chapter 3 on at least 11 different occasions, Rule 405 on 10 dates, and Rule 602(b) four times. It is obvious that Respondent has been guilty of long standing neglect in its failure to maintain its sewage treatment plant. These violations of the Board's Rules constitute violations of Section 12(a) of the Act.

Respondent's violations constitute a threat to the health and welfare of the residents of the Eldorado Terrace Subdivision. Failures in the operation of the lift station often resulted in bypassing. In these instances raw sewage flowed out into a slough and was never treated. Despite repeated warnings Respondent never installed chlorination facilities thereby causing extremely high bacterial coliform counts in its effluent. The overflowing sanitary sewers also constituted immediate threats to public health.

Respondent's sewer system and sewage treatment plant are integral parts of the Eldorado Terrace Subdivision. Proper operation and maintenance of these facilities is essential to the viability of this community.

There was testimony to the effect that the sewage treatment plant was located in a suitable area.

There are a number of things that Respondent could do to improve its present operations. These are summarized in Exhibit 27 and were agreed upon at a compliance conference on July 30, 1975. The substance of this agreement was incorporated into the Agency's Request for Admissions of Fact. Petitioner must live up to this agreement until an improved system is installed. None of these interim measures represents any large capital expense.

The Agency introduced evidence to the effect that a comprehensive review of the Respondent's entire sewage treatment plant may be necessary to achieve consistent compliance with the Board's standards. While the operation of the present system is being improved, Respondent must engage a qualified consultant who will develop a plan which will provide for long range compliance.

The Board is aware of the fact that these mandated improvements may result in significant expense to a utility whose financial condition is weak. However, the record in this case is replete with broken promises and failures to take any action which would result in long-term improvement. Consequently, the Board finds that a penalty must be imposed to aid in the enforcement of the Act.

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

Mr. Young abstains.

ORDER

It is the Order of the Pollution Control Board that:

1) Respondent shall proceed immediately to perform the following improvements:

a) The chlorine tank shall be kept free of sludge solids and a chlorination system installed.

b) Solids shall be skimmed from the final clarifier and the sludge return system shall be checked twice per week.

c) A fence shall be constructed around the facility to preclude vandalism and keep animals away.

d) A report shall be filed with the Agency each month indicating Respondent's progress in completing these improvements.

2) Respondent shall develop a plan for consistent compliance with the Board's standards. This plan shall include but not be limited to evaluation of the following:

a) Additional capacity for the lift station.

b) Installation of a new activated sludge treatment system.

c) Installation of new air diffusion equipment.

d) Installation of a new final clarifier.

3) The plan mentioned in paragraph 2 of this Order shall be completed by a qualified consultant and shall be submitted to the Agency for approval within six months of the date of this Order.

4) Within six months of the date the Agency approves the plan mentioned in paragraph 2 of this Order, Respondent shall cease and desist all violations of the Board's Rules and Regulations.

5) Within 30 days of the date of this Order, Respondent shall forward the sum of fifteen hundred dollars ($1,500) payable by certified check or money order to:

Fiscal Services Division
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 13th day of October, 1977 by a vote of 4-0.

Christan L. Moffett, Clerk
Illinois Pollution Control Board