

ILLINOIS POLLUTION CONTROL BOARD  
June 10, 1981

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 80-197  
 )  
CITY OF JACKSONVILLE, )  
a municipal corporation, )  
 )  
Respondent. )

MR. VINCENT W. MORETH, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

RAMMELKAMP, BRADNEY, HALL, DAHMAN, KUSTER & COLLINS, ATTORNEYS AT LAW (MR. THEODORE C. RAMMELKAMP, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the October 28, 1980 Complaint brought by the Illinois Environmental Protection Agency ("Agency").

Count I of the Complaint alleged that, from August 1, 1978 until October 28, 1980, the Respondent intermittently discharged effluent from its wastewater treatment plant ("plant") which contained excessive levels of BOD<sub>5</sub> and total suspended solids in violation of its NPDES Permit No. IL 0021661, Rules 410(a) and 901 of Chapter 3: Water Pollution Control Regulations ("Chapter 3"), and Section 12(f) of the Illinois Environmental Protection Act ("Act").

Count II alleged that, intermittently from June 13, 1978 until October 28, 1980, the City of Jacksonville (the "City") discharged effluent from its plant which caused, either alone or in combination with other sources, the waters of the Mauvaise Terre Creek, a navigable Illinois water, to contain less than 5.0 milligrams per liter ("mg/l") of dissolved oxygen and to contain levels of ammonia nitrogen (as N) in excess of 1.5 mg/l in violation of Rules 203(d), 203(f), 402, and 901 of Chapter 3 and Section 12(a) of the Act.

Count III alleged that, beginning on October 18, 1979 and ending on October 19, 1979, the City allowed its plant to discharge approximately 200,000 gallons of raw untreated sewage into the Mauvaise Terre Creek (the "creek"), thereby polluting the water and causing

the death of 6,938 fish valued at \$2,305.65 in violation of Rules 203(a), 402, 403, and 901 of Chapter 3 and Section 12(a) of the Act.

A hearing was held on January 7, 1981 and the parties filed a Statement of Stipulated Settlement on January 26, 1981. However, on February 19, 1981, the Board entered an Interim Order which rejected the Statement of Stipulated Settlement because of ambiguities in the penalty provisions of the proposed stipulation.

A second hearing was held on May 8, 1981 and the parties filed a Revised Statement of Stipulated Settlement ("Stip.") on May 14, 1981.

The City's wastewater treatment facility, which discharges effluent pursuant to NPDES Permit No. IL 0021661, is located in Morgan County, Illinois. The City has admitted that it intermittently committed the violations alleged in the Complaint, but the City has also made explanations of some of these admitted violations. Although the Respondent asserts that unintentional violations of the NPDES Permit interim limits for BOD<sub>5</sub> and total suspended solids "were primarily due to unexpected situations" such as "an extraordinary increase in industrial waste, delay in obtaining necessary grant funds needed to improve its sewage treatment facilities, and current plant design", the Agency contends that the City should have "required its industrial dischargers to limit their discharge of pollutants (both type and volume) to levels the City's sewage treatment plant could effectively treat". (See: Stip. 6-9; Exhibit 3).

It is stipulated that the City's wastewater treatment plant was not "designed to remove the ammonia nitrates" (sic) which were formerly discharged by industrial manufacturing operations. (Stip. 7). However, the Agency believes that "the City could have reduced the levels of Ammonia Nitrogen (as N) by vigorously enforcing its industrial wastes ordinance and/or closely monitoring its industrial dischargers." (Stip. 7-8).

It is the Respondent's position that the unintentional discharge of about 200,000 gallons of raw sewage "was unavoidable because the plant's inlet line became clogged with rags and wood causing raw sewage to discharge through an emergency stormwater overflow into the Mauvaise Terre Creek". (See: Exhibit 4; Stip. 7).

On the other hand, the Agency maintains that:

"The City should have carefully monitored the plant so as to prevent (during a 30-hour period) approximately 200,000 gallons of raw sewage to be discharged into the Mauvaise Terre Creek. Based on the fact that it took 30 hours before anyone noticed the discharge, the Agency finds this is indicative of negligence and poor management on the City's part. It took only minutes to correct the situation which had a potential to cause even greater environmental harm than what occurred. This shows how easily the discharge could have been prevented if the City had been properly monitoring its plant. This also shows how easily it can be prevented in the future...

...The Agency's reports and investigations in support of its position revealed that approximately 10 miles of the Mauvaise Terre Creek was polluted as a result of the 30 hour bypass which ended on October 19, 1979."

(See: Exhibit 6; Stip. 9-10).

The City contends that although "the discharge lasted approximately 30 hours before it was discovered and immediately corrected", "the Mauvaise Terre Creek prior to the October 19, 1979 discharge was in such a poor condition due to its low water volume and water quality, that it could not have supported the number of fish estimated by the Department of Conservation to have been killed in its Revised Fish Kill Report." (See: Exhibits 4-5; Stip. 7-8).

However, the Agency believes "that the Department of Conservation report relative to the number of fish killed is correct." (Stip. 9).

It is indicated "that on October 22, 1979 the plant experienced an electrical outage which caused an unknown amount of sewage to bypass the plant and discharge into the Mauvaise Terre Creek. This discharge lasted approximately 70 minutes. The City has an alternative feed source for electrical power, but it took seventy minutes to shift over." (Stip. 7-8). The Agency noted that, as a result of this October 22, 1979 discharge, severe water pollution occurred, dissolved oxygen levels plummeted, and nearby residents were inconvenienced by the offensive odors. (See: Exhibit 6; Stip. 10-11).

The Revised Statement of Stipulated Settlement provides that the City will follow a detailed compliance program to prevent any future discharges of raw sewage and to eliminate any future water quality violations. Moreover, the City shall: (1) have a Class I certified operator to directly supervise and oversee operations; (2) promptly "install a 24-hour automatic monitoring device at the influent sluice gate that will warn operators at the plant of any overflow into the emergency outlet"; (3) file all necessary reports with the Agency in a timely manner; (4) "vigorously enforce its industrial waste ordinance"; (5) "vigorously enforce the contracts the City has with all industrial dischargers so as to require said dischargers to limit their discharges to contract limits and plant capabilities"; (6) pay \$2,305.65 into the Wildlife and Fish Fund of the State Treasury as reimbursement for the reasonable value of the 6,938 fish which were killed in the creek; and (7) pay a stipulated penalty of \$1,994.35 . (Stip. 11-14).

In evaluating this enforcement action and proposed settlement agreement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act and finds the Revised Statement of Stipulated Settlement to be acceptable under the Board's Procedural Rule 331.

The Board finds that the Respondent, the City of Jacksonville, has violated the conditions of its NPDES Permit No. IL 0021661; Rules 203(a), 203(d), 203(f), 402, 403, 410(a), and 901 of Chapter 3:

Water Pollution Control Regulations, and Sections 12(a) and 12(f) of the Illinois Environmental Protection Act. A payment of \$2,305.65 as reimbursement for the reasonable value of the fish killed will be assessed against the Respondent. Additionally, the stipulated penalty of \$1,994.35 will also be imposed on the City of Jacksonville.

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

ORDER

It is the Order of the Illinois Pollution Control Board that:

1. The Respondent, the City of Jacksonville, has violated the conditions of its NPDES Permit No. IL 0021661; Rules 203(a), 203(d), 203(f), 402, 403, 410(a), and 901 of Chapter 3: Water Pollution Control Regulations, and Sections 12(a) and 12(f) of the Illinois Environmental Protection Act.

2. Within 30 days of the date of this Order, the Respondent shall pay the sum of \$2,305.65 to the Game and Fish Fund of the State Treasury (as reimbursement for the reasonable value of the fish killed), payment to be made by certified check or money order which is to be sent to:

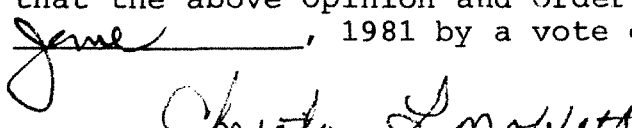
State of Illinois  
Fiscal Services Division  
Illinois Environmental Protection Agency  
2200 Churchill Road  
Springfield, Illinois 62706

3. Within 30 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$1,994.35 which is to be sent to:

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

4. The Respondent shall comply with all the terms and conditions of the Revised Statement of Stipulated Settlement filed May 14, 1981, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 10<sup>th</sup> day of June, 1981 by a vote of 4-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board