

ILLINOIS POLLUTION CONTROL BOARD
March 5, 1981

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-263
)
CITY OF EAST PEORIA,)
a municipal corporation,)
)
Respondent.)

MR. DOUGLAS P. KARP, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MOEHLE, REARDON, SMITH & DAY, LTD., ATTORNEYS AT LAW (CHRISTINE A. CLATT, 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 13, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). Count I of the Complaint alleged that, on various specified occasions, the Respondent failed to monitor effluent discharges from its wastewater treatment plant's storm basin bypass (002) in violation of a condition in its NPDES Permit No. IL 0028576, Rule 901 of Chapter 3: Water Pollution Control Regulations ("Chapter 3"), and Sections 12(a), 12(b), and 12(f) of the Illinois Environmental Protection Act ("Act"). Count I also alleged that the Respondent failed to perform the necessary tests for fecal coliform, BOD₅, total suspended solids, chlorine residual and pH as required by its NPDES Permit.

Count II alleged that the City of East Peoria ("City") allowed bypassing of its sanitary sewer system at a specified manhole and other unauthorized points to a ditch tributary to Farm Creek in violation of Rule 901 of Chapter 3 and Sections 12(a), 12(b), and 12(f) of the Act.

Count III alleged that the City improperly discharged sewage from the storm water basin without chlorination (i.e., the sewage did not receive a minimum of primary treatment and disinfection) in violation of its NPDES Permit, Rule 901 of Chapter 3, and Sections 12(a), 12(b), and 12(f) of the Act.

Count IV alleged that effluent discharged from the City's storm water basin contained floating debris, excessive floating solids, and improper color, odor and turbidity in violation of the limitations contained in its NPDES Permit, Rules 403 and 901 of Chapter 3, and Sections 12(a), 12(b), and 12(f) of the Act.

Count V alleged that, from April 21, 1976 until October 13, 1978, the City operated its sewage treatment plant ("plant") without a properly certified operator in violation of Rule 1201 of Chapter 3 and Section 12(a) of the Act.

Count VI alleged that the Respondent had no available auxiliary power or alarm system at the lift stations of the plant's sewer system in violation of its NPDES Permit, Rules 601(a) and 901 of Chapter 3, and Sections 12(a), 12(b), and 12(f) of the Act.

Count VII alleged that, for a relatively short time period, the facility's secondary effluent pump was not operating and all plant flow was going through the storm water basin and that this improper discharge violated its NPDES Permit, Rule 901 of Chapter 3, and Sections 12(a), 12(b), and 12(f) of the Act.

On October 24, 1978, the City filed a Motion to Dismiss the Complaint. On November 1, 1978, the Agency filed a Motion for Leave to File an Amended Complaint, Instanter, and an Affidavit. The Amended Complaint updated the original Complaint and added an eighth count which alleged that the City violated Rules 401 and 405 of Chapter 3. On November 2, 1978, the Board granted the Agency's motion and dismissed the City's Motion to Dismiss the original Complaint as moot.

On November 8, 1978, the City filed a Motion to Dismiss the Amended Complaint. However, on November 16, 1978, the Board denied the City's Motion to Dismiss the Amended Complaint. After extensive discovery occurred, a hearing was held on November 25, 1980. The parties filed a Stipulation and Proposal for Settlement on December 22, 1980.

The City of East Peoria owns and operates a sewage treatment plant located near the intersection of Cass Street and Spencer Street in Tazewell County, Illinois which discharges effluent directly into the Illinois River from the plant's secondary effluent outfall (001) pursuant to NPDES Permit No. IL 0028576. (Stip. 2). Additionally, the City "is also permitted to discharge excess flow beyond the capacity of raw sewage pumps from its storm basin bypass (002)." (Stip. 2). The effluent that is discharged from this storm basin bypass "is conveyed by a ditch to a levy (sic) district pump station and from there to the Illinois River". (Stip. 2). The plant, which is currently designed for an average flow of about 2.5 million gallons per day ("MGD") and a peak flow of approximately 5.8 MGD, "utilizes an activated sludge process, a storm water basin for treatment of excess flow, and chlorination". (Stip. 2). The treatment components of the City's facility "currently consist of a inlet structure bypass

pump station, an inlet bar screen, pumping equipment, primary clarifiers, two completely mixed activated sludge plants, storm water basin, anaerobic digesters, sludge drying beds, secondary effluent chlorination facilities, and mechanical sludge dewatering facilities." (Stip 2).

While the Respondent neither admitted nor denied most allegations charged in the Complaint, the parties have stipulated that the City "did not monitor for fecal coliform, BOD₅, Total Suspended Solids, chlorine residual and PH five times a week during the months of April 1978 and May 1978". (Stip. 5). Because of these admissions by the Respondent, the Agency contends that the City was in violation of its NPDES Permit, Rule 901 of Chapter 3, and Sections 12(a), 12(b), and 12(f) of the Act.

Additionally, the parties have stipulated that, from April 21, 1976 until the filing of the Amended Complaint, the City "had no available auxiliary power or alarm system at the lift stations of the facility's sewer system". (Stip. 6). Accordingly, the Agency contends that the City thereby violated Rules 601(a) and 901 of Chapter 3 and Sections 12(a), 12(b), and 12(f) of the Act.

It is also stipulated "that on May 9, 1978, May 11, 1978, and other unspecified dates, the facility's secondary effluent pump was not operating and all plant flow was going through the storm water basin (002)." (Stip. 6). Moreover, the parties have indicated that the City failed to notify the Agency vis-a-vis these improper discharges. (Stip. 6). Thus, the Agency contends that the City was in violation of its NPDES Permit, Rule 901 of Chapter 3, and Sections 12(a), 12(b), and 12(f) of the Act.

The parties have also stipulated that:

"...On or about December 7, 1979, the City of East Peoria filed an Amended Petition of Variance from Rules 501(c), 601(a), and 602(b), of Chapter 3 (Water Regulations). The Board granted the City a variance from Rules 501(c), 601(a), and 602(b) of the Water Regulations regarding sewer system overflows until March 1, 1981, subject to certain conditions...

On or about May 18, 1980, the City of East Peoria filed an Amended Petition of Variance from Rule 404(c) of the Water Regulations to allow the City to discharge treated effluent containing BOD₅ and Suspended Solids to outfall 002 at the same effluent standards as currently specified in the NPDES Permit for outfall 001 during periods of effluent pump failure until such time as the Facilities Plan Improvements are constructed under the Grants Program...

An infiltration/inflow (I/I) study was conducted on the East Peoria Sewer System from 1976 to 1977. The study indicates that severe infiltration and inflow results in hydraulic overloading of the Plant and frequent overflows and surcharging on the Plant's sewer systems...

The City's priority number for grant funds is 937. It will probably not be eligible for construction grant funds for several years." (Stip. 6-7).

The proposed settlement agreement provides that the City shall: (1) take all steps reasonably necessary to upgrade its plant (as the requisite grant funds become available); (2) during the interim period (i.e., "pending grant-funded upgrading of the plant and sewer system") take specified steps to upgrade its sewer system, pumps, primary clarifier, activated sludge plant, chlorination equipment, sludge treatment, storm water basin (outfall 002), testing and reporting procedures, certified operator employment, and general equipment maintenance; and (3) pay a stipulated penalty of \$2,000.00 . (Stip. 8-14).

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. The Board finds the stipulated agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Board finds that the Respondent, the City of East Peoria, has violated its NPDES Permit, Rules 401, 403, 405, 601(a), 901, and 1201 of Chapter 3, and Sections 12(a), 12(b), and 12(f) of the Act. The stipulated penalty of \$2,000.00 will be assessed against the Respondent.

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 East Peoria, has violated Rules 401, 403, 405, 601(a), 901, and 1201 of Chapter 3: Water Pollution Control Regulations and Sections 12(a), 12(b), and 12(f) of the Illinois Environmental Protection Act.

2. Within 60 days of the date of this Order, the City of East Peoria shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$2,000.00 which is to be sent to:

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

3. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed December 22, 1980, 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 5th day of March, 1981 by a vote of 5 0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board