ILLINOIS POLLUTION CONTROL BOARD
May 12, 1971

Environmental Protection Agency	)	
	)	
v.	)	PCB 70-9
	)	
City of Springfield	)	

Thomas W. Scheuneman, for the Environmental Protection Agency
Walter J. Simhauser and I. J. Feuer, for the City of Springfield

Opinion of the Board (by Mr. Kissel):

On September 16, 1970, the Environmental Protection Agency ("Agency") filed a complaint against the City of Springfield ("City") and the Springfield Light and Power Company[1] alleging certain violations of the Environmental Protection Act ("Act") and the rules and regulations promulgated thereunder. The alleged violations occurred as a result of the operation of a City owned power plant in the City of Springfield. On October 22, 1970, the Agency filed an amended complaint with the Board which alleged violations by the City in the operation of the power plants, known as the Lakeside and Dallman plants, as follows:

1) Violation of Rule 3-3.122 and 3-3.112 of the Rules and Regulations Governing the Control of Air Pollution;

2) Violation of Section 9(a) of the Act; and

3) Violation of Section 12(a) and 12(d) of the Act.

The original complaint, and the amended complaint, asked that this Board enter an order directing the City to cease and desist the "aforesaid violations" and also asked that a penalty be imposed against the City in the amount of $10,000, plus $1000 for each day the violation was shown to have continued. On the first day of the hearing, the Agency agreed with the City to amend the complaint by dropping the request for damages. In exchange for that amendment, the City agreed to file a petition for variance, which it did. The petition asked the Board to give the City time in order to convert certain facilities and to install an electrostatic precipitator. The hearing officer consolidated both cases for hearing and the first set of hearings were held in November, 1970. Subsequent to the date of the hearing, both parties requested the Board to open up the hearings in order to introduce additional proof. The request was granted by the Board and the hearing was held on April 8, 1971.

---

1. The evidence made it clear that the City Light and Power Company was merely a department of the City itself and not a separate company.

[THE CITY'S FACILITIES]

The City operates an electrical system which produces electricity for sale in the City of Springfield. The main generating facilities of the City are located on By Pass Route 66 east of the center of the City. On that location the City has two separate plants, Lakeside and Dallman. The Lakeside plant is divided by the City into Units 1 and 2. Unit 1 of the Lakeside plant consists of three generators (1-3), 4 boilers (Units 1-4) and four short stacks (Stacks 1-4). Lakeside No. 2 includes four generators (Generators 4-7), four boilers (Boilers 5-8) and four stacks (Stacks 5-8). At the Dallman plant, there is one boiler, one generator and two stacks. Boilers 1-4 and Generators 1-3 in the Lakeside plant connect with a common header system. That same system connects in turn with Generator 4 and Boiler 5 and Generator 5 and Boiler 6 of the Lakeside plant. The common header system is a means of generating steam with one boiler and being able to transfer it to another turbine generator. Boilers 1-4 at the Lakeside plant exhaust through their respective numbered stacks. Boilers 5-8 and stacks 5-8 are in the stage of connection to a common exhaust to an electrostatic precipitator and will exhaust through Stack No. 9. At the Dallman plant, Boiler No. 1 exhausts through Stack No. 1 after passing through a mechanical dust collector. The 8 generators at the Lakeside plant range in capacity from 10 to 33 megawatts. Dallman Unit No. 1 is an 80 megawatt capacity generator. All of the boilers are coal fired and use a bituminous soft coal with a sulfur content of approximately 4%. The coal is pulverized for Boilers 1-6 and Boilers 7 and 8 are cyclone fired boilers. Dallman plant is a cyclone fired unit which also burns the same quantity and kind of coal.

[CONTAMINANT CONTROL DEVICES]

As of the date of the original hearing in this case, none of the boilers or stacks in the Lakeside plant had any operating control devices for reducing the air contaminant emissions. The request for variance filed here by the City called for reducing the emissions from the Lakeside plant by replacing Boilers 1, 2 and 3 with 280,000 pound per hour packaged boilers which would be oil fired. In addition, Boiler No. 4 would be converted from a coal burning boiler to one which would burn diesel fuel at a sulfur content of four-tenths of one per cent. In addition, Boilers 5-8 were to be connected to a vent system which would vent the air from the boilers through an electrostatic precipitator and out Stack 9. No plans were made for Dallman Unit No. 1 since it was the position of the City that that unit is now in compliance with the regulations. The original time schedule for accomplishing the program was that Boiler No. 4 would be converted by June of 1971, Boilers 1-3 would be installed by June of 1972, and the electrostatic precipitator was supposedly in operation on the day of the first hearing. Since that date, however, the City has changed its plan. In the most recent hearing on April 8, 1971,

Mr. William Porter, the General Superintendent of the electrical system for the City, testified that Boilers 2, 3 and 4 would be converted to oil firing boilers by June 1971. Boiler 1 would, according to the Brief of the City, be retired. The electrostatic precipitator to be installed to reduce the emissions from Boilers 5-8 will be operable about June 1, 1971. The propriety of this program under the law will be explored later in this opinion.

[CITY'S DEALINGS WITH AGENCY]

There should be some discussion of the City's participation with the Environmental Protection Agency and its predecessor organization regarding the City's plans to reduce contaminant emissions. In a letter dated July 21, 1967 (EPA Exhibit No. 3) the City submitted its letter of intent required by the Air Pollution Control Board which letter detailed the sulfur content, ash content and heating value for its operating boilers. It was not until July 15, 1968 (See EPA Exhibit No. 4) that the City submitted its Air Contaminant Emission Reduction Program (ACERP) for review and approval by the Air Pollution Control Board. This program is detailed in EPA Exhibit No. 5 which is the report of Burns and McDonnell Engineering Company, and is further detailed in letters submitted to the Technical Secretary of the Air Pollution Control Board dated July 15, 1968 (EPA Exhibit No. 4), August 2, 1968 (EPA Exhibit No. 6), August 14, 1968 (EPA Exhibit No. 7) and September 25, 1968 (EPA Exhibit No. 8). The program which was approved by the Air Board called for the conversion of Unit No. 4 of the Lakeside plant to an oil fired unit, to be done by 1972, the use of Boilers 1-4 for peaking purposes only during the years 1969 through 1973 and the installation of a 95% efficient electrostatic precipitator to handle Boilers 5-8. The precipitator was to be installed and operating by March 1, 1970. The ACERP was subsequently amended (although the amendment was not officially approved by the Air Board) on May 20, 1970 (See EPA Exhibit 16) to change the date of the precipitator installation from March 1, 1970, to September 15, 1970. The conversion of Unit No. 4 was to take place by June 1, 1971 and two of the four boilers in Lakeside Unit No. 1 were to be converted by 1974 at the latest and "hopefully by 1972". The reason given for the delays in installation of the precipitator were that the construction work was delayed because of "weather conditions and labor strikes".

[AGREEMENT BETWEEN CITY AND AGENCY]

Before discussing the merits of the case, it is necessary to deal with one procedural issue. As was previously pointed out, the Agency in its original complaint asked that money damages be assessed against the City for violations of the Environmental Protection Act and the Rules and Regulations promulgated thereunder.

By agreement of the City and the Agency, the money penalties provision in the Agency's complaint was dropped and in consideration for that the City filed a petition for variance. The specific question before the Board is whether the Board has the power to assess money penalties under these circumstances, notwithstanding the fact that the Agency has dropped its request for money penalties; however, the basic issue is whether this Board is bound to accept the agreement made between the City and the Agency regarding the money penalty issue, or any other. We hold that the Board is not so bound. The Environmental Protection Act gives the Board the power to assess money penalties for violations of the Act or regulations promulgated thereunder. This Board has sustained and proven its right to assess such money penalties in enforcement actions. See EPA v. Modern Plating, PCB 70-38. Furthermore, the assessment of money penalties does not depend on whether the complaining party asks that penalties be assessed. See GAF Corporation v. EPA, PCB 71-11. Having the right to assess penalties, whether asked for or not, the question then becomes whether the Board must be bound by the agreements of parties made without the Board's consent. It has been the policy of the Board since its inception that settlements or modifications in proceedings will not be permitted unless it is done with the full and prior consent of a majority of the Board. Although the Rules of Procedure of the Board were not yet adopted when this alleged agreement between the City and the Agency took place, those rules were published and were available to the attorneys for the City and the Agency. Rule 333 entitled Settlement Procedure is directly in point. It states as follows:

> "No case pending before the Board shall be disposed of or modified without an order of the Board. All parties to any case in which a settlement or compromise is proposed shall file with the Board a written statement, signed by the parties, or their authorized representatives, outlining the nature of, the reasons for and the purposes to be accomplished by the settlement. Within a reasonable time after receipt of the written statement, the Board shall enter an appropriate order. The Board shall have the right to require that any or all the parties of such case appear before the Board to answer inquiries of the Board relating to the proposed disposition." (Emphasis supplied)

This procedural rule was not followed in this case. The Board did not give prior approval to the modification of the case--from substantive penalties to no penalties. Notwithstanding any unapproved agreement between the two parties, the Board can assess money penalties against the City if the facts dictate that such penalty should be assessed.

The reason for this rather strict holding is that the Board does not want cases compromised to such a degree that the effectiveness of the State's entire pollution control program is severely reduced. All persons who appear before this Board should know that in any case in which it deems necessary as an integral part of the finding, this Board will assess money penalties against those who have violated the law or the regulations even where contrary agreements exist. To have a procedure other than this one where the Board has control of those cases filed before it would mean that the parties, not the Board, to a case could control the State pollution control program. We now turn to the substantive issues of the case.

[THE ISSUES]

The issues presented in this case, the enforcement case, deal with the violation by the City of Springfield of the smoke density regulation at its Lakeside and Dallman plants, the violation of the particulate regulation at the Lakeside and Dallman plants, the violation of Section 9(a) of the Act at its Lakeside and Dallman plants and the violation of Section 12(a) and 12(b) of the Act in that the City caused or threatened to cause water pollution or created a water pollution hazard. Each issue will be dealt with separately.

[THE SMOKE DENSITY VIOLATION]

The Rules and Regulations Governing the Control of Air Pollution, adopted by the Illinois Air Pollution Control Board and embraced within the Act by Section 49(c) provide in the relevant part, in Section 3-3.122 as follows:

> "The production or emission of dense smoke is prohibited. No person shall cause, suffer or allow to be emitted into the open air from any fuel burning equipment, internal combustion engine, premise, open fire, or stack smoke the appearance, density, or shade of which is No. 2 or darker of the Ringelmann chart except as provided in Rule 3-3.300."

Section 3 of which the above quoted section is a part applies to emissions from new equipment. However, section 2 which applies to emissions from existing equipment incorporates section 3 in Section 2-2.11 which states as follows:

> "Except as provided under Rule 2-2.5, the emission standards for new equipment in Chapter 3, Section 3 of these Regulations shall apply to all existing equipment located in the standard metropolitan statistical areas (SMSA) of Illinois."

Therefore, the regulation found in Section 3-3.122 is applicable to the City power plants even though they were existing sources on the date of adoption of the Rules and Regulations. The City power plants are located in Sangamon County which, according to Table 1, of Chapter 2 is defined and identified as a Standard Metropolitan Statistical Area (SMSA). The evidence from the record is clear that the City violated this standard on a number of occasions. Mr. Maxim Rice, an employee of the Environmental Protection Agency, took Ringelmann readings with the assistance of Mr. Otto Klein, also an employee of the Agency, on July 29 and 30, 1970. The majority of the readings taken indicated a Ringelmann chart number of 5. See EPA Exhibits 25, 26A, B, C, D and 27A, B, and C. In addition, neighbors of the plant indicated that on a great number of occasions, black smoke was seen coming out of the stacks at the Lakeside plant. Interestingly enough, no violations of the Ringelmann standard were identified at the Dallman plant. The City's defense to the Ringelmann violation is that Section 2-2.41 of the same rules provides as follows:

> "When an emission reduction program has been approved, the person receiving the approval shall not be in violation of this section provided that the approved program is being implemented."

Certainly, if there was an approved up-to-date program in effect at the time of the emissions, this section would exempt the City from prosecution of the violation. However, no such program was in effect on the dates when the emissions were noted. This issue was dealt with directly by this Board in the case of the EPA v. Commonwealth Edison Company, PCB 70-4, decided February 17, 1971. There, as in this case, the Respondent had filed its ACERP in 1968 and had it approved. The Respondent sought to raise as a defense the very provision which the City attempts to raise in this case. The Board commented that a literal reading of the regulations would have provided an indefinite defense to an enforcement action. The Board reasoned that if the Rule was construed to provide an "infinite defense" it was beyond the statutory authority of the old Air Pollution Control Board to do so since the Air Pollution Control Act "flatly limited variances to one year." See Air Pollution Control Act, Section 11. The Board further held:

> "Since the ACERP in this case was approved in 1968 and never renewed, it is therefore no defense to an enforcement action today, although it is clear that we would not be inclined to impose money penalties on anyone who in good faith had adhered to an approved program. In this case, no money penalties are sought." See EPA v. Commonwealth Edison, PCB 70-4.

The ACERP was approved in 1968 and never reapproved; therefore it is no defense to this action by the EPA. Furthermore, the City did not prove that its smoke emissions came within any of the exceptions found in the regulations such as soot blowing and boiler start up. Therefore, the City has violated the above section by emitting smoke in excess of Ringelmann No. 2. Based upon the testimony in the record previously described, the City has violated the above Section by emitting smoke in excess Ringelmann No. 2.

[THE PARTICULATE REGULATIONS - VIOLATION]

Section 3-3.112 is applicable to the operations of the City. It provides as follows:

> "However, irrespective of stack height or number of stacks, the maximum allowable emission for any stack or plant shall be 0.6 pounds of particulates per million BTU input."

A violation by the City of this Section of the Rules and Regulations Governing the Control of Air Pollution was proved by the Agency. By using the City's letter of intent on its various plants, the EPA proved that each of the stacks of the Lakeside plant violated the 0.6 pounds per million BTU standard. The stack from the Dallman plant and emissions therefrom, did not, according to the Agency, violate that standard. Standards were violated by a great amount, for example, Stack No. 1 showed a calculated emission rate of 2.66 pounds per million BTU which is over 4 times the amount allowed by the governing regulations. The particulates found their way all across the neighborhood. Probably the most dramatic testimony in this regard was that of Merlin Rohlinger, the Chief Chemist for the Environmental Protection Agency. On November 13, 1970, he went to the Howard Johnson Motor Inn which is a short distance from the City's power plant. He collected samples of particulate matter which had deposited themselves around the swimming pool. The material was fly ash and pulverized coal. He testified, without objection from the City, that since pulverized coal was in almost equal proportions to the fly ash, that these samples could only have come from a user of coal in a boiler having high temperatures for combustion. In that area, he testified, there was only one installation that could produce this particulate matter and that would be the City's boiler plants. Neighbors testified that they were showered with the particulate matter most of the time. There is no question that the City violated the Rules and Regulations Governing the Control of Air Pollution and the particulate standard contained therein.

[VIOLATION OF SECTION 9(a)]

In addition to alleging a violation of the regulations concerning particulate emissions and the Ringelmann standard, the Agency has also alleged that the City has violated Section 9(a) of the Act. It provides as follows:

"No person shall
(a) cause or threaten to allow the discharge or emission of any contaminant into the environment in any state so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or as to violate regulations or standards adopted by the Board under this Act;"

Air pollution is defined as follows:

"The presence in the atmosphere of one or more of the contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health or to property, or to unreasonably interfere with the enjoyment of life or property." (Section 3(b) of the Act)

Violation of the particulate regulations and the Ringelmann standard as previously described also constitute a violation of Section 9(a) of the Act. In addition, however, the Agency contends that the City has and continues to violate Section 9(a) because of the high emissions of sulfur dioxide from its plants. As was pointed out by the City, no regulation or standard on sulfur dioxide emissions, or emission reduction exists at this time. This does not mean, however, that the City is given free rein to emit as much sulfur dioxide as it chooses. Sulfur dioxide is a contaminant as defined by the statute, and if it is emitted in such concentrations so as to be injurious to human, plant or animal life, to health or to property or to unreasonably interfere with the enjoyment of life or property, its emission can violate Section 9(a) of the Act. See EPA v. Commonwealth Edison Company, PCB 70-4. The City in its boilers burns 4% sulfur coal. Based on computations of Otto Klein, a witness for the Agency, using the sulfur content of the coal and the total coal burned, this would mean that over 80 million pounds per year of sulfur dioxide is emitted from the stacks at the Lakeside and Dallman plants. While these computations may not be accurate, they certainly reflect the fact that significant amounts of sulfur dioxide are emitted each year and each day by the City. The report of Burns and McDonnell dated July 1968 (EPA Exhibit No. 5) indicates that based upon the performance of the various boilers a concentration of .5 ppm could be found at and near the plant. This significant concentration is apparently there, at least according to the many witnesses in the area who testified to the fact that there was a sulfur odor in the area. See testimony of Miss Dale Becker, Mrs. Lamontague and Ann Maher. The effects of this kind of high concentration of SO_2 are well demonstrated in the "Air Quality Criteria for Sulfur Oxides" (EPA Exhibit 68):

"In addition to health considerations, the economic and aesthetic benefits to be obtained from low ambient concentrations of sulfur oxides as related to visibility, soiling, corrosion, and other effects should be considered by organizations responsible for promulgating ambient air quality standards. Under the conditions prevailing in areas where the studies were conducted, adverse health effects were noted when 24-hour average levels of sulfur dioxide exceeded 300 ug/m^3 (0.11 ppm) for 3 to 4 days. Adverse health effects were also noted when the annual mean level of sulfur dioxide exceeded 115 ug/m^3 (0.04 ppm). Visibility reduction to about 5 miles was observed at 285 ug/m^3 (0.10 ppm); adverse effects on materials were observed at an annual mean of 345 ug/^{3} (0.12 ppm); and adverse effects on vegetation were observed at an annual mean of 85 ug/m^3 (0.03 ppm). It is reasonable and prudent to conclude that, when promulgating ambient air quality standards, consideration should be given to requirements for margins of safety which take into account long-term effects on health, vegetation, and materials occurring below the above levels."

The level of air quality attributable to the City's plant, if it persists for even a short time, is well beyond the level at which health effects, damage to property and effects on vegetation have been seen. The sulfur concentrations then are not only injurious to plant and animal life, but unreasonably interfere with the life of the neighbors of the plant. The neighbors can smell it, they can taste it. Even though a standard for sulfur dioxide does not presently exist, there is no question in the mind of this Board that sulfur dioxide emissions from the Lakeside and Dallman plants are significant enough to be deemed air pollution within the meaning of the Environmental Protection Act.

[WATER POLLUTION]

The Agency alleged that the fly ash pit at the north end of the Springfield dam in which the Respondents discharge fly ash was so poorly constructed that it not only caused pollution of Sugar Creek, a tributary of the Sangamon River, but was a water pollution hazard under Section 12(d) of the Act. There is no need for the Board to decide this issue since the following statement appears in the Brief of the City on page 14:

"The City does not deny the water pollution charge".

The testimony of Ward L. Akers of the Agency demonstrated that the fly ash pit was leeching into the stream bed and settling on the bottom of the stream bed. These solids are disruptive to the bottom forms of aquatic life in the stream. The berms are ill-constructed and create a threat of water pollution.

[MONEY PENALTIES]

Previously stated in this opinion, this Board has the power, notwithstanding any agreement between the City and the Agency, to assess money penalties in this case if it deems that they should be

assessed. Upon a review of all the facts and circumstances, we feel that no money penalties should be assessed against the City. Originally, the City's ACERP program called for the use of Boilers 1-4 for emergency use only during peak loads, for the conversion of those units by 1974 (or retirement of the units by that date) and the installation of an electrostatic precipitator by March 1, 1970. The only basis for the assessment of money penalties, if any existed at all, would be the delay in complying with the ACERP program. There are really only two parts of the original program which the City has not complied with: (1) It has operated Units 1-4 (Lakeside 1) at times other than peak periods; and (2) Its electrostatic precipitator for Units 5-8 (Lakeside 2) was not installed by 1970. Both areas of non-compliance are excusable based upon the facts in the record. It is really hard to determine the exact extent of the use of Units 1-4. Obviously, the use was made to meet demands of those customers on the Springfield system in addition to other power company customers which the City was obligated by contract to provide power to. Operation of those units then over the past few years is excusable. As to the second violation, the City has been besieged with problems involving the precipitator. The City has had delivery problems, labor problems, problems with the breaching, and problems with the transformer. None of the delays in the opinion of this Board are attributable to the actions of the City. They have tried, but because of the many problems have been unable to meet their original commitment with the State which was to have an electrostatic precipitator on line by March 1, 1970. No money penalties should be assessed against the City in this case.

[WHAT THE CITY SHOULD DO]

The City's program to control particulate emissions and further Ringelmann violations seems adequate. By June of 1971, it will have converted Units 2, 3 and 4 (Lakeside 1) to oil fired units. Unit No. 1 at Lakeside 1 will be retired. By July 1, 1971, the electrostatic precipitator on Units 5-8 (Lakeside 2) will be operating. This part of the City's program is more than adequate, and the City should be complimented for its agressiveness in pursuing this program within the last 6 months. There still remains, however, the question of what the City should do about the sulfur dioxide emissions from the Lakeside and Dallman plants. Notwithstanding the fact that no specific standard exists concerning the limitations on sulfur dioxide emissions, the City is emitting concentrations to such an extent that the Board has deemed this air pollution. The City must do something about this problem. Many witnesses testified that although packaged SO_2 reduction units cannot be purchased off the shelf as of today, the technology exists for sulfur dioxide removal. Glenn Anderson, a Sales Engineer for Babcock and Wilcox, expected that by late 1970, a commercially available SO_2 reduction unit could be purchased by the City. Wet scrubbing is a possibility as is a dry system

converting SO_2 to usable by-products. Pilot plants presently being operated and within the very near future will determine the technological feasibility of installing these systems on a wide scale basis on all coal burning boilers. This Board believes that the City should begin investigations, as it testified it has already begun, into the matter of sulfur dioxide reduction from its stacks. Therefore, the City will be ordered to file with the Board and the Agency a plan by December 1, 1971, detailing the specific ways it intends to solve this serious air pollution problem. The plan shall provide amongst other things that by June 1, 1974, the City will no longer be in violation of Section 9(a) of the Environmental Protection Act in causing air pollution as a result of the emissions of sulfur dioxide. The Agency shall review the plan and make comments on it to the Board. Based upon testimony in the record, the City can well afford to install this kind of program. It is a successfully operated public utility, and has the alternative, if present funds are not available, to raise the rates to its customers. The City has a history of low rates which can be raised to absorb additional costs for abating this most serious problem.

The City has instituted a program to stop the water pollution created by the fly ash pit to the north of its property. This program apparently consists of reworking, or reconstructing the berms and dikes around the perimeter of the pit. It is difficult for this Board to assess whether the program is adequate to solve the problem and, therefore, will order the City to work with the Agency to see that within a reasonable time, by October 1, 1971, there is no longer any pollution of Sugar Creek as a result of the presence of the fly ash pit.

[THE CITY'S VARIANCE]

The City, during the proceedings, as was previously indicated in this opinion, filed a petition for variance with the Board. The variance was amended by the testimony in the April 8 hearing as well as by the Brief filed by the City. In essence, the Board hereby grants the variance subject to the conditions previously stated, that is the City will have Units 2, 3 and 4 converted to oil firing units by June 1, 1971, retire Unit No. 1 by June 1, 1971, and have in operation the electrostatic precipitator for Units 5-8 by July 1, 1971.

This opinion constitutes the Board's findings of fact and conclusions of law.

[ORDER]

The Board, having considered the record in this case, hereby orders:

1. The City shall not operate Lakeside Unit No. 1 which consists of Generators 1-3, Boilers 1-4 and Stacks 1-4, after June 1, 1971, so as to cause violations of Section 3-3.112 and Section 3-3.122 of the Rules and Regulations Governing the Control of Air Pollution, made applicable by Section 2-2.11 thereof.

2. The City shall not operate Lakeside Unit No. 2 which consists of Generators 4-7, Boilers 5-8 and Stacks 5-8 after July 1, 1971, so as to cause violations of Section 3-3.112 and Section 3-3.122 of the Rules and Regulations Governing the Control of Air Pollution, made applicable by Section 2-2.11 thereof.

3. By December 1, 1971, the City, working in conjunction with the Agency, shall submit to the Agency and the Board a program to reduce the emissions of sulfur dioxide from the Lakeside and Dallman plants so as not to cause a violation of Section 9 (a) of the Act as described in the opinion of this Board. That program shall include a detailed explanation of the plans for, timetables for completion of and costs of specific devices which will be used to solve the problem and shall be implemented and said devices shall be in operation by June 1, 1974.

4. Within 30 days after the date of this order, the City shall submit to the Agency and to the Board a plan for the control of discharges and runoff from the fly ash pit which plan shall abate the water pollution that is now occurring and abate the water pollution hazard created by the fly ash pit. The plan shall provide for implementation on or before October 1, 1971.

I, Regina E. Ryan, Clerk of the Pollution Control Board, certify that the Board adopted the above opinion this 12th day of May, 1971.
