

ILLINOIS POLLUTION CONTROL BOARD
June 6, 1972

CITY OF MATTOON)
)
) #72-64
 v.)
)
 ENVIRONMENTAL PROTECTION AGENCY)

MR. JOSEPH SPITZ, ATTORNEY FOR CITY OF MATTOON
MR. THOMAS J. IMMEL, ASSISTANT ATTORNEY GENERAL, ATTORNEY FOR
ENVIRONMENTAL PROTECTION AGENCY

OPINION AND ORDER OF THE BOARD (BY SAMUEL T. LAWTON, JR.)

Pursuant to Opinion and Order of the Board in case entitled "City of Mattoon v. Environmental Protection Agency, #71-8", entered April 14, 1971, a sewer connection ban was imposed against the City of Mattoon in consequence of the city's failure to have complied with the provisions of Regulation SWB-14, resulting in an extreme overload of the city's sewage treatment facilities and the serious and unabated pollution of Kickapoo Creek. (Prior thereto, on November 20, 1970, the Environmental Protection Agency had issued a letter stating that no new sewer connections would be permitted until effluent requirements of Technical Release 20-22 had been met, in accordance with the time schedule stated in SWB-14.) Our April 14, 1971 Order provided as follows:

- "1. The City of Mattoon is hereby ordered to submit to the Environmental Protection Agency, on or before September 1, 1971, final plans and specifications for the facilities required to bring its sewage collection and treatment facilities into compliance with Rules and Regulations SWB-14.
2. The City of Mattoon is hereby ordered to complete the construction of the facilities specified in paragraph 1 of this Order no later than July 1, 1972.
3. The City of Mattoon shall post with the Environmental Protection Agency, on or before May 14, 1971, a bond or other security in a form to be determined by the Agency, in the amount of \$10,000, such sum to be forfeited to the State of Illinois in the event that the City does not comply with the provisions of this Order, as found by the Pollution Control Board in a supplementary proceeding.

4. The City of Mattoon shall, on or before July 15, 1971, issue without referendum such revenue bonds and/or general obligation bonds as may be necessary to finance the design and construction of facilities specified in paragraph 1 of this Order.
5. The City of Mattoon shall complete the construction of the primary sedimentation tanks for reduction of bypasses by September 1, 1971.
6. The City of Mattoon shall not permit the connection of any new sewers or other sources of waste to its facilities, or any increase in the strength or concentration of wastes discharged to its facilities, until it demonstrates to the Agency that it is in full compliance with the requirements of SWB-14 with respect to overloads, bypasses, and the provision of advanced waste treatment.
7. The City of Mattoon shall pay to the State of Illinois, on or before May 14, 1971, the sum of \$1000 as a penalty for violation of the water pollution regulations specifying dates for the submission of plans and the letting of contracts for construction of sewage treatment facilities.

On April 10, 1972, an amended petition for variance was filed with the Board requesting that the November 20, 1970 Environmental Protection Agency Order and paragraph 6 of our Order be varied "so as to permit the connection of new customers to the City Sewer System".

The petition alleges that subsequent to the April 14, 1971 Order, the City has made the following improvements and modifications in its sewage treatment facility:

1. Construction of a 60 foot diameter sedimentation tank used for storm water treatment;
2. Construction of a 60 foot sedimentation tank used for secondary treatment;
3. Improvement of all primary sewage pumps to a total capacity of 8.4 million gallons per day.

All three of the foregoing facilities are installed and presently operational.

The following items of aeration equipment have been added to the City's sewage treatment facilities:

1. Three 25 horse power mechanical aerators; and

2. One 75 horse power centrifugal blower.

As a result of the foregoing installations, the City now has capacity for providing primary and secondary treatment for 4.4 million gallons per day instead of 3.2 mg/d existing when the sewer bans were imposed and has capacity for an additional 4,000,000 gallons per day of combined waste water which can receive primary treatment as compared with 0.8 mg/d available when the bans were imposed.

On April 1, 1972, a referendum was approved by the voters of Mattoon providing for the issuance and sale of general obligation bonds in the amount of 1.6 million dollars to pay the municipality's share of a proposed six million dollar improvement program for expansion and modernization of the City's sewer system, the balance of the funds anticipated to come from State and Federal grants. The program contemplated would bring the program of development within the time schedules and effluent standards for tertiary and advanced treatment as provided in our newly adopted Regulations, Chapter 3, Water Pollution, Part IV, Sec. 404.

The petition represents that during the months of January and February, 1972, tests made of BOD and suspended solids of the City's effluent show that the treatment plant now produces an effluent of an average 20 mg/l for BOD and 40 mg/l for suspended solids (except during periods of storm water overflow, which condition has presumably been corrected). These numbers satisfy BOD limits and approach suspended solids limits established for these contaminants by our Regulation for the current period prior to the deadline of December 31, 1973 for compliance with tertiary treatment standards of 4 BOD and 5 Suspended Solids.

Hardship resulting from the imposition of the sewer connection ban is asserted, based on the economic impact on the community consequential to the inability to accomodate new industrial and residential uses so long as the ban remains in effect and the severe unemployment of tradesmen and building personnel resulting therefrom. Testimony received at the September 22, 1971 hearing "In Matter of Sewer Connection Bans, #R71-19" is referred to in the petition and incorporated by stipulation in the present record. We acknowledge the presence of hardship without further proof. The remaining problem is what, if anything, should be done with respect to the lifting of the ban in consideration of the impact of such removal on the public welfare.

The petition for variance states that all by-passing of untreated sewage has been completely eliminated and that the City now has a total pumping capacity of 8.4 million gallons per day. The City's primary and secondary treatment capacity is now 4.4 million gallons per day, reflecting an increase of 1.4 million gallons per day, and the ability to give primary treatment to 4 million gallons of storm water per day, an increase of 3.2 million gallons per day over what was the capacity on the date of the sewer ban Order.

Petitioner represents that its anticipated construction program will meet the newly established requirements of Chapter III for tertiary treatment before the December 31, 1973 deadline.

The Agency recommendation confirms the pumping capacity figures above set forth with respect to primary and secondary treatment and the character of the effluent during the testing period resulting in a BOD of 20 and a Suspended Solids average of 40. The recommendation notes that presently no chlorination facilities have been installed which will be required pursuant to Rule 405 of the new regulations by July 31, 1972. The recommendation observes that a BOD of 4 and a Suspended Solid limit of 5 will be met prior to the December 31, 1973 deadline, and that with the exception of the lack of chlorination and suspended solid content of the plant's effluent, petitioner will be in compliance with the July, 1972 deadlines. Completion dates will be met by December 31, 1973 with respect to all tertiary and advanced treatment. The recommendation of the Agency states, in part, as follows:

- "14. In view of the new Regulations and the facilities which the petitioner has provided since the Board Order, the Agency would recommend that the Board completely remove the ban and relinquish jurisdiction over the case, if it were not for the chlorination and suspended solids problems.
15. Once these problems have been resolved and approved final completion schedules have been submitted, regular Agency permit procedures can be resumed and will assure that new connections will not overload the treatment facilities and cause pollution of Kickapoo Creek."

The ultimate recommendation of the Agency is as follows:

- "16. Based on the improved facilities and enlarged capacity, and the Water Pollution Control Regulations adopted March 7, 1972, the Agency recommends that the Board retain jurisdiction and grant a variance subject to the following conditions:
 1. The operation of the new facilities is improved to meet the suspended solid standard of 25 (based on a 30 consecutive day average),
 2. The petitioner installs and operates chlorination facilities and,

3. The Petitioner files an approved project completion schedule according to Rule 1002-b-ii.

17. The Agency requests that it be authorized to issue conditional installation permits (construction allowed but connection prohibited) but that no connections be allowed until condition #1 and 2 are satisfied, and petitioner can show to the satisfaction of the Agency that additional connections will not violate the Act or any applicable Regulations.
18. The Agency further requests that the Board retain jurisdiction only until the Agency notifies it that conditions 1, 2 and 3 have been satisfied.
19. The Agency reserves the right to modify or revoke its recommendation prior to the close of the Record on this matter."

Hearing was held on the petition and recommendation in Mattoon on April 17, 1972. Testimony confirmed the capacities for primary and secondary treatment and for storm water treatment (R. 14), and the installation of additional pumping systems, sedimentation tanks, aeration facilities and blower. At the present time there is no storm water by-passing of the sewage treatment plant nor the main out-flow approximately 300 feet upstream of the sewage treatment plant (R. 15). Total cost to date for the improvements installed has been approximately \$326,000.00. (R. 16). Since receipt of the Agency recommendation, plans and specifications for the purchase of chlorination equipment have been prepared and a new pump is being installed which will bring suspended solids down to the 25 mg/l limit. Chlorination facilities will be installed by July 31, 1972.

The new sewage treatment plant facilities to be constructed and in operation by approximately September 1, 1973 are designed to increase the present capacity to accommodate a peak flow of 12,000,000 gallons per day with complete tertiary treatment and chlorination, and will provide an additional 12,000,000 gallons per day for storm water retention and treatment. Chlorination will be provided for all flows (R. 46).

It is anticipated this will accommodate a fifteen-year period of growth and will cost \$6,040,000. Interim chlorination will cost between \$10,000 and \$12,000. (R. 47). The new facilities, when completed, will entirely eliminate the possibility of non-treated storm water reaching Kickapoo Creek.

Tests introduced by the Agency confirm the great improvement in BOD and suspended solid limits but disclosed the presence of high fecal coliform readings, the abatement of which requires the chlorination process. (R. 58 through 64, Agency Exhibits 1 through 5). In the opinion of the Agency witness, the installation of a new sludge pump would enable compliance with the 25 MG/l Suspended Solids limits.

A witness from the Mattoon League of Women Voters recommended the lifting of the sewer ban subject to the City complying with the construction deadlines and effluent limits, as well as the conditions proposed by the Environmental Protection Agency. The witness also recommended the adoption of a sewer surcharge ordinance to "assure a system of equitable cost recovery for the citizens of Mattoon." (R. 79).

On March 28, 1972, the Board granted a partial lifting of the sewer ban to permit connection by Kraft Food Division of Kraftco Corporation, (#71-388), subject to certain specified terms and conditions, including pre-treatment and the installation and operation of in-plant facilities to minimize the hydraulic and organic impact on the Mattoon sewers.

We believe that petitioner's program of improvement since the imposition of the sewer ban to bring its effluent to tolerable limits approximating those which are required by regulation, together with the installation of chlorination facilities and a new sludge pump, as well as its overall program of improvement to meet the December, 1973 deadlines for tertiary treatment, justify a lifting of the sewer ban, subject to the terms and conditions set forth in our Order. The hardship imposed on the community and its citizens resulting from the suspension of construction is manifest, and we believe the public interest will be protected upon suspension of the sewer ban by what the City has already achieved and by what it will be obliged to do in the future. We adopt the conditions proposed by the Agency with the exception that we do not require the installation of all necessary facilities for chlorination and suspended solids improvements prior to lifting the ban, but will require that these conditions be met as a basis for the continuation of the sewer ban suspension.

As we did in the original case, we must again recognize the valuable input of the League of Women Voters of Mattoon. Its statement in this case recommended granting of the relief to the City on three conditions:

1. That the City meet the conditions recommended by the Agency;

2. That the City file monthly progress reports to the Board; and
3. That the City write a sewer surcharge ordinance to comply with Federal regulations.

The substance of the first two suggestions will be incorporated in our Order although not precisely in the form proposed. The third suggestion, of a sewer surcharge ordinance, is indeed a good one. In order to obtain Federal funds, the City must, among other things, make sure that industry is paying its fair share of the treatment costs. A sewer surcharge ordinance is one way to assure compliance with the Federal regulations and we strongly suggest that the City give consideration to its adoption.

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

IT IS THE ORDER of the Pollution Control Board that the sewer connection ban orders entered by the Environmental Protection Agency on November 20, 1970 and by the Pollution Control Board on April 14, 1971 be and the same are hereby terminated, subject to the following terms and conditions:

1. Facilities shall be installed to assure compliance with a suspended solids standard of 25 mg/l by July 31, 1972.
2. Chlorination facilities shall be installed by July 31, 1972 that will bring fecal-coliform counts into compliance with existing regulations.
3. The project completion schedule shall be filed in accordance with Rule 1002-b-ii for all construction required to be completed to meet secondary and tertiary sewage treatment standards as provided by Regulation.
4. The Board retains jurisdiction for such other and further Orders as shall be appropriate, including the right to reinstate the sewer ban when hydraulic or organic effluent limits are shown to have been exceeded, pursuant to hearing by the Pollution Control Board.

5. The City of Mattoon shall post with the Environmental Protection Agency, on or before July 6, 1972, a bond or other security in a form to be determined by the Agency, in the amount of \$25,000.00, such sum to be forfeited to the State of Illinois in the event that the City does not comply with the provisions of this Order, as found by the Pollution Control Board in a supplementary proceeding.

I, Christan Moffett, Clerk of the Pollution Control Board, certify that the above Opinion and Order was adopted on the 6th day of June, 1972, by a vote of 4 to 0.

Christan L. Moffett