

ILLINOIS POLLUTION CONTROL BOARD
March 8, 1973

ENVIRONMENTAL PROTECTION AGENCY)
)
) #71-355
)
v.)
)
CITY OF JACKSONVILLE)

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

On May 23, 1972, we entered our Opinion and Order on the Agency's complaint, which had alleged violation of Section 12(a) of the Environmental Protection Act on four occasions, as a consequence of the City's discharge of contaminants from its power and water treatment facilities into Mauvaise Terre Creek, a tributary to the Illinois River. The case was decided principally on the basis of a stipulation filed on February 25, 1972, which conceded the heavy discharge of lime sludge into the creek and suspended solids sampling demonstrating violations, as alleged. The opinion pointed out, however, that the most significant issue was the remedial abatement program and the need to take immediate steps to clean up the creek and the settling lagoons which have been caked with lime sludge, causing overflowing and the continuing pollution of the creek.

Our Order provided as follows:

"It is therefore ordered that the City of Jacksonville abate pollution of Mauvaise Terre Creek in accordance with the following program:

1. The City shall proceed with all reasonable dispatch to eliminate the overflow of lime sludge from its water plant by the increase in the height of its lagoon berm, the same to be completed by June 1, 1972. The City shall remove the existing lime sludge in its lagoons under the City's contract with K. E. Vas Co., promptly upon the Company receiving a permit for its disposal site from the Environmental Protection Agency, or by any alternative disposal means which is permitted by the Agency.

That further, City is hereby ordered to proceed promptly to complete its plans and specifications for the installation of its lime sludge dewatering equipment and process and to provide that the liquid effluent from its water sludge lagoons be placed into the sanitary sewage system of said City. That complete plans and specifications are to be submitted to the Agency by August 1, 1972, and construction to be completed within 10 months of the date on which a permit is issued by the Agency.

2. That it is further ordered that the City of Jacksonville cease and desist from allowing chromium and oil wastes to be deposited into Mauvaise Terre Creek from City's electric plant. That the City cease and desist the use of rust inhibitor containing chromium in its power plant.

That the City further promptly complete construction of necessary facilities for placing its water effluent from its power plant into the City's sanitary sewer collection system. Said work is to be completed by June 15, 1972.

3. That within 35 days of the date of this Order, the City shall post a bond in the amount of Ten Thousand Dollars (\$10,000) and in a form satisfactory to the Agency to guarantee performance of the preceding orders.
4. The City of Jacksonville shall, within thirty days hereof, submit to the Board and to the Agency a program for totally removing all lime sludge and any other contaminants which have become deposited in Mauvaise Terre Creek as a result of its discharges, or, in the alternative, proof that such a program is not economically feasible. The Agency shall comment upon such program or proof within 20 days thereafter. This proceeding remains open for such further order as the Board may deem appropriate on this issue.
5. The City shall, within fifteen days hereof, submit to the Board and the Agency a complete written report indicating exactly what steps remain in its program for abating continuing discharges along with the expected completion dates of each step. Thereafter, every thirty days, the City shall submit a full progress report on the program.
6. The City shall pay to the State of Illinois, within thirty days hereof, the sum of One Thousand Dollars (\$1,000) as a penalty for the violations found in this opinion. Payment shall be made payable to the State of Illinois and sent to the Environmental Protection Agency, Fiscal Services Division, 2200 Churchill Drive, Springfield, Illinois 62706."

On June 20, 1972, a further Order of the Board was entered modifying the second subparagraph of paragraph 1 of the Board's Order, to read as follows:

"That further, City is hereby ordered to proceed promptly to complete its plans and specifications for the installation of its lime sludge dewatering equipment and process to provide that the liquid effluent from its water sludge lagoons be placed into the sanitary sewage system of said City or such other suitable alternative plan for disposal of lime sludge and effluent from the lagoons that meets the standards and approval of the Agency. That complete plans

and specifications are to be submitted to the Agency by August 1, 1972, and construction to be completed within ten (10) months of the date a permit is issued by the Agency."

Words underlined were added by the amendment.

On June 22, 1972, the City filed a program pursuant to paragraph 4 of the May 23, 1972 order with respect to the removal of lime sludge and other contaminants now deposited in the creek. The program proposed two possible methods of reclamation, the first being the cleaning of the existing creek channel, which would cost approximately \$600,000 and the second being a relocation of the stream channel to a line parallel to and approximately 40 feet from the existing channel. The cost of relocation would be approximately \$200,000 and would take between 4 and 6 months for initial surveying, land acquisition and financing and three additional months for channel construction which could only be done between June and September, which were periods of minimal flow. The submission asks that the decision on the reclamation be deferred until June 1, 1974.

On June 29, 1972, the Agency filed its comments on the program indicating that it could not approve the program, as proposed, particularly in view of the suggested deferral of decision until June 1, 1974. It was stated that additional information would be needed as to the anticipated cost for cleaning, the time involved for either cleaning or relocation and more detail relative to the relocation program.

On July 26, 1972, the City filed a response to the Agency's comments detailing the cost anticipated if the reclaiming and cleaning were followed which totalled \$600,000 and time projections for both reclaiming and relocation which, in each instance, would entail a total of 390 days, or approximately 13 months.

On July 18, the Board had authorized further hearings on this matter as a result of the various submissions made. On October 10, 1972, a further comment was filed by the Environmental Protection Agency commenting on the stream relocation program and the stream reclamation program, again disagreeing with the deferral of decision until June 1, 1974 but not indicating a preference as to which method, that of reclamation or relocation, be followed by the City.

Hearing had been set for January 10, 1973. On December 11, 1972, we received a motion from the Environmental Protection Agency to dispense with hearing, reciting the submission of the various documents outlined above and asking the Board to enter an Order based on all of the documents before it, which motion was concurred in by the City. On December 12, 1972, we entered an Order stating that upon review of the various documents filed, we were unable to discern precisely what the Agency's attitude is on the various alternative programs submitted on behalf of Respondent and directing that the hearings proceed so that the Board could be fully cognizant of the Agency's attitude with respect

thereto. Hearing was held in Jacksonville on January 24, 1973 at which time the City indicated that it preferred to pursue the program calling for the relocation of the stream which, in addition to costing approximately one-third of what stream reclamation would cost, would have significant environmental advantages, would minimize the interference with the foliage and would provide for the burying of the lime sludge presently in the creek bed which would be abandoned as a consequence of the new realignment.

The plan proposed would eliminate the need for hauling away the lime sludge and the need for finding a facility where it could be buried. Exhibit 14, introduced in evidence, delineated both the present channel location and the proposed relocation alignment. The testimony indicated the difference between a \$200,000 expenditure for relocation and \$600,000 for reclamation. Earth removed by excavation of the new channel location would be used to bury the lime sludge in the existing channel (R. 15). The program would minimize the need for installation of access roads and lessen the damage to the natural growth. The configuration of the new channel would also enable improved flow characteristics and minimize the likelihood of flood and overflows (R. 17). Natural habitat would be relocated, where possible, and seeding and planting of trees would take place. A holding pond would be constructed at the north end of the proposed area to collect all lime sludge during the construction period. The program requires the approval of the State Division of Waterways (R.21). It appears that both the City and the Agency are in agreement that the relocation program is preferable and will, if followed as proposed in all respects, result in compliance with the Board's Order. We do not have a precise time schedule which can be used as the basis of a Board Order as we recognize that there are still several unresolved areas in respect to financing and land acquisition. We do, however, approve the program for relocation as submitted and will direct the City and the Agency to expedite its fulfillment.

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 program of relocation of Mauvaise Terre Creek be implemented and completed at the earliest practicable date pursuant to Exhibit 14, the submissions of the City of Jacksonville and the testimony of witnesses heard at the hearing of January 24, 1973. Within 30 days from the date hereof, the City shall file with the Agency and the Board a proposed time schedule specifying the anticipated dates for submission of finalized plans for relocation, obtaining of the necessary financing, land acquisition, permit approval, initiation of construction and completion of the program. The Board reserves jurisdiction of the matter for

such other and further orders as may be appropriate.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on the 8th day of March, 1973, by a vote of 3 to 0.

Christan S. Moffett

