

ILLINOIS POLLUTION CONTROL BOARD

May 23, 1972

Environmental Protection Agency)
v.) PCB 71-355
City of Jacksonville)

William J. Scott, Illinois Attorney General, by Jim Keehner, Assistant
Attorney General for the Environmental Protection Agency
Orville N. Foreman, Esq. for the City of Jacksonville

OPINION OF THE BOARD (by Mr. Dumelle)

This complaint, filed November 10, 1971, charges the City of Jacksonville with violations of Section 12(a) of the Environmental Protection Act on four separate dates (March 17, April 6, June 2 and June 9, 1971) through the discharge of contaminants from its power and water treatment facilities into Mauvaise Terre Creek, a tributary to the Illinois River.

A Stipulation between the parties as to most of the pertinent facts was filed on February 25, 1972. The Stipulation indicates that on each of the alleged dates Agency inspectors were present at the City's treatment facilities and did observe the heavy discharge of lime sludge to the Creek. Effluent samples were taken on the first three dates. The analyses, among other parameters, showed suspended solids at 9580, 5300 and 17,140 mg/l respectively. We have no doubt that all the alleged violations occurred and that they were very serious in nature.

The significant issue at this point, however, is the City's cleanup of the creek and its remedial abatement program. The reports of the Agency inspectors all show that the lime sludge settling lagoon at the treatment plant and also the Creek are in deplorable condition as a result of the City's discharge. They found that the lagoon has become entirely filled with lime sludge and that the plant flow is now all overflowing across the caked sludge, as the result of the City's inattention to routine maintenance. The overflow is pouring out through the lagoon embankment and flowing directly into the Creek. The Creek has been turned a very turbid tan color far downstream from the discharge point. The stream bottom is heavily covered with lime sludge and in many areas was observed to be severely constricted by sludge accumulations. One inspector

found that within a mere three-month period the lime sludge encroachment upon the Creek had advanced one-half mile.

The Stipulation and testimony indicate that some consideration has been given by the City to arrange for cleaning up the Creek, but no commitment has been made. All we can really find in this case is that the Creek is being utterly destroyed by the City.

The testimony of the City's consulting engineer points out that some type of abatement program for continuing discharge is in progress. We want to see extraordinary efforts made by the City to complete that program, and to the extent practicable, to clean up the stream. The failure of the City to demonstrate within 30 days that this cannot be done will be taken as an admission that it can be. We will not tolerate this utter destruction of a natural resource.

The City was told to correct its inexcusable discharge as long ago as 1968 and only now is doing so. We will hold the City to its abatement program and impose a nominal penalty of \$1,000, which would be much higher if we were not dealing with a public body. Cf. City of Springfield v. EPA, PCB 70-55 (March 31, 1971). The City has requested that it be given the authority by the Board to issue bonds if necessary, without referendum under Section 45 of the Environmental Protection Act to pay for the improvements to the plant. As we have said previously, the Board has the obligation under Section 46 to order a municipality to abate its pollution discharges, and this order makes Section 46 of the Act operative. See EPA v. City of Marion, PCB 71-25 decided October 28, 1971. It is now the obligation of the City to raise funds to abate the discharges and if necessary, raise such funds by the issuance of bonds without referendum under §46 of the Act.

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

ORDER

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.

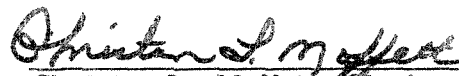
2. That it is further ordered that the City of Jacksonville cease and desist from allowing chromium and oil wastes to be deposited into Mauvaise Terre Creek from City's Electric Plant. That the City cease and desist the use of rust inhibitor containing chromium in its power plant.

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 this 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 (\$1,000.00) 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 Road, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted on the 23rd day of May, 1972 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board