

ILLINOIS POLLUTION CONTROL BOARD  
February 21, 1980

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 79-53  
 )  
 TRIPLE T INNS OF EDWARDSVILLE, INC., )  
 )  
 Respondent. )

STEPHEN GROSSMARK, ASSISTANT ATTORNEY GENERAL, APPEARED ON  
BEHALF OF COMPLAINANT;  
MICHAEL HACKETT APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by Mr. Goodman):

This enforcement action was filed before the Board on March 13, 1979 by the Environmental Protection Agency (Agency) alleging violation of Section 12(f) of the Environmental Protection Act (Act) and Rule 901 of the Board's Water Pollution Rules by Triple T Inns of Edwardsville, Inc. (Triple T). The parties presented a Stipulation and Proposal for Settlement at a hearing held on July 26, 1979. No witnesses were called, nor were any members of the public present at the hearing.

Triple T owns and operates a "Holiday Inn" motel located near the junction of Interstate 270 and Illinois Route 157 in Madison County, near Edwardsville, Illinois. Respondent owns and operates a sewage treatment plant that services domestic wastes generated from the motel. Respondent discharges contaminants into an unnamed tributary of Cahokia Creek pursuant to an NPDES permit issued by the United States Environmental Protection Agency (U.S. EPA) which passed by operation of law to Triple T from the previous owner when the motel was purchased in April of 1977.

The parties have stipulated that the respondent failed to submit Discharge Monitoring Reports (DMR's) as required by the conditions of its NPDES permit since April of 1977 despite warnings on at least three occasions by Agency personnel. The parties, therefore, stipulate that the respondent violated both Section 12(f) of the Act and Rule 901 of the Water Pollution Rules for failure to observe an NPDES permit condition. The respondent, however, upon agreement with the Agency, has now

submitted complete DMR's covering the period from April, 1977 to February, 1979. The respondent also agrees to cease and desist from future violations (Stip., p.6).

The stipulated penalty contained in paragraph 14B of the Stipulation reads as follows:

"B. Respondent, Triple T. Inns of Edwardsville, Inc., should be assessed a total fine of \$5,000.00 for the violations charged in the Complaint as here amended, \$4,000.00 of which should be suspended and the remaining \$1,000.00 of which should be payable within 30 days of the Board Order adopting this agreement" (Stip., p.6).

The Board in the past has rejected stipulated, suspended penalties which were conditioned upon the occurrence of an event. The suspended penalty in this case, however, is not a contingent one. Furthermore, there is adequate justification for the suspension of \$4,000.00 of a \$5,000.00 penalty. Although in many cases the failure to file DMR's is a ploy used to prevent disclosure of non-complying discharges, in this case there is no indication by the Agency that the respondent has ever exceeded the discharge limitations of its NPDES permit. Therefore, there is no proof in this case of any environmental harm. Because the suspended penalty is not a contingent one and there is no indication of environmental harm in the complaint, record or stipulation, the Board will approve the penalty.

The Board is satisfied that future compliance will occur and that the penalty imposed is appropriate. The Board hereby accepts the parties' Stipulation and Proposed Settlement as submitted on July 26, 1979. The Agency's request for leave to amend the complaint instanter, contained in paragraph 9 of the Stipulation, is hereby granted.

This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

#### ORDER


It is the Order of the Pollution Control Board that:

1. Triple T Inns of Edwardsville, Inc. shall cease and desist from further violations of the Environmental Protection Act and the Board's Water Pollution Control Rules.
2. A penalty of \$5,000.00 shall be imposed, \$4,000.00 of which shall be suspended for the reasons set forth in the Opinion. Within 30 days of the date of this Order the Respondent, Triple T Inns of Edwardsville, Inc., shall pay by certified check or money order the sum of \$1,000.00, to be sent to:

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

Mr. Dumelle concurs.  
Mr. Werner dissents.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 21<sup>st</sup> day of February, 1980 by a vote of 3-1.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board