

ILLINOIS POLLUTION CONTROL BOARD  
March 21, 1984

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, ) PCB 83-177  
 )  
v. )  
 )  
PRAIRIE VISTA, INC., a )  
Delaware corporation, )  
 )  
Respondent. )

MR. ALLEN SAMELSON, ASSISTANT ATTORNEY GENERAL, APPEARED ON  
BEHALF OF THE COMPLAINANT.

HAYS, SCHNEIDER, HAMMER & MILES (MR. FRANK MILES, OF COUNSEL)  
APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by W. J. Nega):

This matter comes before the Board upon a November 28, 1983  
Complaint filed by the Illinois Environmental Protection Agency  
(Agency) which alleged that, on May 5, 1983 and May 6, 1983, the  
Respondent improperly allowed the discharge of effluent from its  
wastewater treatment lagoon into the Sangamon River without NPDES  
Permit authorization in violation of 35 Ill. Adm. Code 304.141(b);  
35 Ill. Adm. Code 309.102; and Sections 12(a) and 12(f) of the  
Illinois Environmental Protection Act (Act). A hearing was held  
on January 13, 1984. The parties filed a Stipulation and Proposal  
for Settlement on January 26, 1984.

The Respondent, Prairie Vista, Inc. (Prairie Vista), owns  
and operates a wastewater treatment facility serving a mobile  
home park known as River Oaks Village which is located about 3  
miles east of the City of Springfield in Sangamon County. There  
are 310 spaces for mobile homes in the River Oaks Village mobile  
home park.

On January 28, 1972, the Agency issued Permit #1972-GA-115  
to Prairie Vista which authorized the Respondent to own and oper-  
ate a 3-cell (in series) aerated lagoon, a final settling tank  
with addition of chemicals, and chlorination of effluent designed  
to serve a population equivalent of 999 in the River Oaks Village  
mobile home park with discharge to the Sangamon River. (Stip. 2;  
see: Exhibit A).

By February 15, 1973, Prairie Vista completed the installation of its 3-cell aerated lagoon system which was then serving a population of about 174 persons. The surface area of cell #1 was 1.18 acres, while the surface area of cell #2 was 0.5 acres and the surface area of cell #3 was 0.1 acres. These 3 cells are separated by wooden partitions. Aeration is accomplished via 2 blowers housed in a small building which provide aeration through diffusion lines to the first 2 cells and the inlet portion of cell #3, while an air lift return line recycles sludge from the inactive zone of cell #3 to cell #1 near the influent discharge line. (Stip. 2-3). The aerated lagoon has a normal operating depth of 10 feet.

Although the Agency-approved plans and specifications provided for the installation of equipment to provide final settling with chemical addition and effluent chlorination, Prairie Vista did not complete the construction of such equipment. The Respondent installed 3 concrete tanks to provide detention time for chlorine contact, but failed to install: (1) a final settling tank (into which alum would be fed for coagulation); (2) a building which would house a coagulant feeder and a chlorine feeder; and (3) the necessary chemical feed equipment. (Stip. 3).

On December 2, 1981, the Agency issued Permit No. 1981-GB-2968 to Prairie Vista for the construction of additions to the Respondent's wastewater treatment facilities serving River Oaks Village. An effluent pump station, a dosing pump station, a chlorination tank, a sampling manhole, and two intermittent sand filters were included as authorized additions to Prairie Vista's facilities. (Stip. 3; see: Exhibit B).

On April 1, 1982, the Board entered an Opinion and Order in PCB 82-37 which granted Prairie Vista, Inc. d/b/a River Oaks Village Mobile Home Park a provisional variance until May 7, 1982 from the BOD<sub>5</sub> and suspended solids limitations of Rule 404(a) of Chapter 3: Water Pollution Regulations to allow the level of wastewater in the lagoon serving River Oaks Village to be lowered to avoid the danger of the lagoon berms giving way and releasing the entire lagoon contents into the Sangamon River. (See: Exhibits C & D). Condition 2 of the Board's Order in PCB 82-37 provided that the Respondent should "construct the treatment plant additions for which a permit was issued by the Agency on December 2, 1981" as expeditiously as weather permits. (Exhibit D). Condition 4 of the Board's Order in PCB 82-37 mandated that the Respondent "take at least one 24-hour composite sample of the effluent discharge when drawing down" and report the results of the analysis of the sample to the Agency within 10 days after the sample was obtained. (Exhibit D).

Between April 5, 1982 and April 13, 1982, the Respondent lowered the lagoon level about 4 feet by conducting pumping

operations. Although a single effluent sample containing 13 equal effluent portions was collected over a 6-day period, the Agency has noted that "the allowable holding time for such sample was exceeded and no analysis results for the sample were ever submitted to the Agency". (Stip. 5).

During the time period from August 6, 1982 until March 15, 1983, the Respondent began the construction work on its wastewater treatment facility which was authorized by Agency Permit No. 1981-GB-2968. This construction work began with earthmoving equipment shaping the site and included the building of the berm and allowing the excavation to settle (which provided the requisite compaction for the installation of the proposed intermediate sand filters). On March 15, 1983, the Respondent poured the concrete footings for the sand filters. (Stip. 5).

About 3½ weeks later, on April 11, 1983, Prairie Vista "verbally requested permission from the EPA field personnel to lower the lagoon level by pumping the water into on-site holding ponds" in order to respond to the situation brought about by the Sangamon River flooding its banks and reaching the toe of the lagoon berm. (Stip. 5). Because the difference in elevation between the water level in the lagoon and the water in the Sangamon River was about 10 feet at that time (with about 1½ feet to 2 feet of freeboard remaining in the lagoon), Prairie Vista believed that pumping might be needed to keep the berms from giving way. (Stip. 5). However, the Agency let the Respondent know that appropriate authorization for such pumping activities would need to come from another provisional variance. The Agency indicated to Prairie Vista that, if the firm applied for a provisional variance for the pumping activity, the Agency would probably recommend that the Board deny the requested relief. (Stip. 5-6). Accordingly, Prairie Vista did not apply for any Board authorization for the discharge of effluent from its wastewater treatment lagoon into the Sangamon River. (Stip. 6).

On May 6, 1983, the Agency conducted an inspection of the Respondent's facilities. During this inspection, the Agency discovered that a siphon hose of about 2½" in diameter and another hose of about 2½" in diameter connected to a submersible pump were being used by Prairie Vista to discharge wastewater from its 3-cell aerated lagoon into the Sangamon River. Additionally, the Agency inspectors spotted another siphon hose of about 3" in diameter which was laying across the lagoon berm, but this hose was not discharging at the time of the Agency inspection. (Stip. 6). The wastewater discharge was discontinued on May 6, 1983 after the Agency inspectors warned the Respondent's employees about the illegal nature of the discharge, but this unauthorized discharge had been occurring since at least May 5, 1983. (Stip. 6). The Agency has noted that the wastewater discharge, which began on, or before, May 5, 1983 and continued on May 6, 1983 until the Agency inspectors discovered it, occurred without the requisite NPDES Permit authorization and resulted in the lowering of the lagoon water level by about 6 inches to 12 inches. The

Agency has calculated that, based on the surface area of the lagoon, one inch of lagoon depth is equivalent to approximately 48,000 gallons of wastewater. (Stip. 6). Thus, from 288,000 gallons to 576,000 gallons of wastewater were discharged during the unauthorized lowering of the lagoon water level.

On May 26, 1983, Prairie Vista resumed construction work on its wastewater treatment facility additions. (See: Exhibit B). On June 1, 1983, the Respondent completed construction of the concrete walls for the intermittent sand filters. Although further work on construction additions was discontinued until about June 29, 1983, piping installation in one of the sand filters began on that date and sand was installed and leveled in the first sand filter by July 14, 1983. (Stip. 6-7).

The proposed settlement agreement provides that the Respondent agrees to: (1) follow a specified completion schedule for construction and installation pursuant to the plans and specifications approved under Agency Permit No. 1981-GB-2968 of the second intermittent sand filter and associated equipment; the lift station and effluent pumping equipment; and all other remaining treatment equipment; and for fencing, seeding, and final grading of earth; (2) pump the remaining contents of the aerated lagoons to the temporary holding pond located to the east of cells #2 and #3 rather than to the intermittent sand filters to expedite construction of the lift station (subject to specified water sampling conditions); (3) repair the 3 cells of the aerated lagoon by fixing the diffusion lines for the aeration system and repairing the lagoon baffling; (4) comply with Agency-approved interim monitoring requirements for discharges from the wastewater treatment facilities serving River Oak Village; and (5) pay a stipulated penalty of \$500 which will be deposited into the Environmental Protection Trust Fund. (Stip. 7-11).

In evaluating this enforcement action and proposed settlement agreement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act and finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180.

The Board finds that the Respondent, Prairie Vista, Inc., has violated 35 Ill. Adm. Code 304.141(b); 35 Ill. Adm. Code 309.102; and Section 12(a) and 12(f) of the Act. The Respondent will be ordered to follow the specified compliance plan and to pay the stipulated penalty of \$500.

This penalty is to be made payable to the Environmental Protection Trust Fund (Trust Fund), pursuant to the authority to so order granted to the Board in Section 42(a) of the Act as amended by P.A. 83-0618, effective September 19, 1983. The legislation creating the Trust Fund and a Commission to

administer it was P.A. 81-951 effective January 1, 1980 and codified as Ill. Rev. Stat. ch. 111½ §1061. That legislation provides in pertinent part that

"The Commission may accept, receive and administer...any grants, gifts, loans, or other funds\*\*\*provided that such monies shall be used only for the purposes for which they are contributed and any balance remaining shall be returned to the contributor,..."

The Board wishes to emphasize that it does not construe the quoted portions of the Trust Fund Act as giving a potential right of recovery for penalties ordered to be paid into the Trust Fund pursuant to Section 42(a) of the Environmental Protection Act. When the Trust Fund was created, the legislature obviously envisioned that the fund was to receive voluntary gifts or contributions, to either be used for environmental purposes or to be returned so as to avoid frustration of the intention of the donor of the gift.

Payment of a penalty for violation of the Environmental Protection Act is a compulsory, and not a voluntary, act. There is no right of recovery for a penalty paid into the general revenue fund. In allowing penalty monies to be paid into the Trust Fund, the legislature has clearly implied that such penalties may, in essence, be earmarked for any appropriate environmental purpose. The Board concludes that to construe the Trust Fund Act as implying a right of recovery for penalties deposited into it runs counter to the intention of the Environmental Protection Act.

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

#### ORDER

It is the Order of the Illinois Pollution Control Board that:

1. The Respondent, Prairie Vista, Inc., has violated 35 Ill. Adm. Code 304.141(b); 35 Ill. Adm. Code 309.102 and Sections 12(a) and 12(f) of the Illinois Environmental Protection Act.


2. Within 35 days of the date of the Order, the Respondent shall, by certified check or money order payable to the State of Illinois and designated for deposit into the Environmental Protection Trust Fund, pay the stipulated penalty of \$500 which is to be sent to:

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

3. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on January 26, 1984, which is incorporated by reference as if fully set forth herein.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 21<sup>st</sup> day of March, 1984 by a vote of 6-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board