

ILLINOIS POLLUTION CONTROL BOARD
February 17, 1982

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	PCB 78-88 and
)	PCB 78-225
SUNDALE SEWER CORPORATION, an Illinois corporation,)	
)	Consolidated
)	
Respondent.)	

MR. VINCENT W. MORETH, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. RONALD L. KEYSER, ELLIFF, KEYSER & HALLBERG, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the March 21, 1978 Complaint in PCB 78-88 brought by the Illinois Environmental Protection Agency ("Agency"). The Complaint alleges that, during various specified time periods between 1976 and 1978, the Respondent, the Sundale Sewer Corporation ("Sundale"), operated its sewage treatment plant which services the Robindale Subdivision near Washington, Tazewell County, Illinois ("Robindale STP"), in such a manner as to: (1) discharge effluents which contained excessive levels of five-day biochemical oxygen demand ("BOD₅"), suspended solids, fecal coliform, ammonia nitrogen, color, odor, and turbidity; (2) emit odors which unreasonably interfered with the enjoyment of life and property by neighboring residents; (3) fail to submit the requisite annual discharge monitoring report to the Agency, and (4) discharge effluents at the top of a bluff and allow it to flow by natural drainage through Farmdale Park where it formed pools in a picnic area in violation of the terms and conditions of NPDES Permit No. IL 0038547 and Operating Permit No. 1975-NP-2592-OP; Rules 203(f), 401(c), 402, 403, 404(f)*, and 405 of Chapter 3: Water Pollution Regulations ("Chapter 3"), and Sections 9(a), 12(a) and 12(b) of the Illinois Environmental Protection Act ("Act").

*The Board notes that, on May 1, 1980, the Board entered an Order which deleted Rule 404(f) from Chapter 3.

On April 19, 1978, the Agency filed a Motion for Leave to Amend its Complaint and an Amended Complaint in PCB 78-88 which corrected some minor typographical errors in the original Complaint. On April 27, 1978, the Board entered an Order granting the Agency's Motion for Leave to file its Amended Complaint in PCB 78-88.

Similarly, on August 18, 1978, the Agency filed a Complaint in PCB 78-225 against the same Respondent pertaining to Sundale's operation of its sewage treatment plant near Washington, Tazewell County, Illinois which services the Highland Hills Subdivision ("Highland Hills STP").

The Complaint in PCB 78-225 alleged that, on various occasions between 1972 and 1978, the Respondent operated the Highland Hills STP so as to: (1) discharge effluents which contained excessive levels of BOD₅, suspended solids, fecal coliform, ammonia nitrogen, sludge solids, color, odor, and turbidity, and cause excessive levels of unnatural deposits, plant and algal growth, and unnatural color in Fondulac Creek and (2) fail to provide the requisite sewage flow measurement device in violation of Rules 203(a), 203(f), 401, 402, 403, 404(f), 405 and 502 of Chapter 3 and Section 12(a) of the Act.

On September 1, 1978, the Agency filed a Motion to Consolidate Proceedings in PCB 78-88 and PCB 78-225. On September 21, 1978, the Board entered an Order consolidating these two cases.

The initial hearing on the consolidated cases was held on February 8, 1979. The parties filed a Stipulation and Proposal for Settlement on March 2, 1979. On July 12, 1979, the Board adopted an Interim Order which rejected the Stipulation and Proposal for Settlement because it provided for contingent and suspended penalties.

On August 23, 1979, the Agency filed a motion which requested that the Board reconsider its interim decision. However, on September 20, 1979, the Board entered an Order which affirmed its Interim Order of July 12, 1979.

On July 23, 1981, the Board entered an Order which attempted to expedite proceedings in this enforcement action. A second hearing on the consolidated cases was held on September 18, 1981 and continued, by joint request of the parties, until November 13, 1981. On November 13, 1981, the third and final hearing was held at which a new Stipulation and Proposal for Settlement was admitted into evidence. The parties filed this new Stipulation and Proposal for Settlement on December 1, 1981.

The Robindale STP, which includes two aerated lagoons that are within 200 feet of nearby homes, was designed to handle a waste flow of 85,000 gpd. and discharge through drainage into Farm Creek, an Illinois water which has a 7-day, 10-year low flow of 0.0 cfs. (Stip. 3). It is stipulated that "discharges

from the Robindale STP flowed by natural drainage through Farmdale Park, where pools would often form in a picnic area". (Stip. 3). Farmdale Park was subsequently closed by the Tazewell County Board because of insufficient funds for park maintenance and upkeep. (Stip. 3). Significant odor problems have occurred in the Robindale Subdivision during the time period between 1976 and 1978 because of lack of proper maintenance at the Robindale STP which resulted in anaerobic lagoons, reductions in effluent quality, and odor-related complaints to the Agency from several nearby residents. (Stip. 3).

The Highland Hills STP, which includes "an Imhoff tank, a dosing tank equipped with two siphons, and two intermittent sand filters", was designed to handle a waste flow of 53,000 gpd. and discharge into Fondulac Creek, a stream tributary to Farm Creek. (Stip. 3). The 7-day, 10-year flow of Fondulac Creek is 0.0 cfs. The Highland Hills STP is located in a relatively isolated area away from most nearby homes and the area around this facility has been used by residents as a public park. (Stip. 3-4). A lack of adequate maintenance at the Highland Hills STP resulted in progressive deterioration of effluent quality, water quality violations, and several odor-related complaints to the Agency during the time period between 1976 and 1978. (Stip. 4).

Agency inspections of both the Robindale STP and the Highland Hills STP have indicated that effluent and water quality violations have occurred on numerous occasions. However, past attempts to have the Respondent rectify matters have proven ineffective, as Sundale Sewer Corporation's financial difficulties have apparently precluded the financing of the required improvements. (Stip. 4). Although Sundale has contended that financial difficulties, especially the low sewer rates, have made it difficult to prevent the two sewage treatment facilities from deteriorating, the Respondent has now agreed to inaugurate a program of interim control measures and long-term improvements to correct various violations and alleviate any further problems. (Stip. 8).

The proposed settlement agreement provides that the Respondent admits the alleged violations and agrees to: (1) cease and desist from further violations; (2) follow a detailed compliance program which sets forth specific measures to correct all environmental problems; (3) adopt interim control measures at both sites such as the requisite monitoring of effluent and the submission of the necessary discharge monitoring reports in accord with its NPDES Permit; and (4) pay a stipulated penalty of \$2,000.00 (in two semi-annual installments of \$1,000.00 each). (Stip. 9-11).

The parties have also indicated that the Respondent has already phased-out the Robindale STP and constructed a new lift station to transfer the loading to another plant owned by the Respondent. Moreover, the Illinois Commerce Commission granted a rate increase for the Robindale system and financing has already been obtained. (Stip. 9).

Accordingly, the compliance plan mandates that Sundale will promptly: (1) submit an application to the Agency for a supplemental "as built" permit; (2) submit an engineering study to the Agency "which will determine what improvements are needed to eliminate discharges of raw sewage from the Summit Road Lift Station and bring the lift station into compliance"; (3) submit the requisite plan detailing how the engineering study's recommendations can be implemented and funded; (4) apply for all necessary permits for construction of needed improvements and apply to the Illinois Commerce Commission for a rate increase to cover the cost of these improvements, and (5) complete the construction of the improvements within one year from the date that the rate increase, if any, becomes effective. (Stip. 9-10). Additionally, the Respondent has agreed to complete the Highland Hills STP in accordance with Permit No. 1980 AB-700 issued by the Agency on May 30, 1980. (Stip. 11).

The Board finds that the Respondent, the Sundale Sewer Corporation, has violated Rules 203(a), 203(f), 401(c), 402, 403, 405 and 502 of Chapter 3: Water Pollution Regulations and Sections 9(a), 12(a), and 12(b) of the Illinois Environmental Protection Act. The Respondent will be ordered to cease and desist from further violations, follow the specified compliance plan, and pay the stipulated penalty of \$2,000.00 in two equal semi-annual payments of \$1,000.00 each.

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, the Sundale Sewer Corporation, has violated Rules 203(a), 203(f), 401(c), 402, 403, 405 and 502 of Chapter 3: Water Pollution Regulations and Sections 9(a), 12(a) and 12 (b) of the Illinois Environmental Protection Act.

2. The Respondent shall cease and desist from further violations.

3. Within 6 months of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay the first installment of \$1,000.00 on the stipulated penalty of \$2,000.00 (and subsequently pay the second installment of \$1,000.00 within 6 months thereafter, so that the entire penalty of \$2,000.00 shall be paid in full),

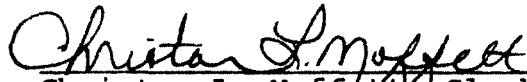
which is to be sent to:

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

4. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on December 1, 1981, which is incorporated by reference as if fully set forth herein.

5. The Board shall retain jurisdiction in this matter to determine any conflicts that may arise under the terms of the Stipulation.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 17th day of February, 1982 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board