

ILLINOIS POLLUTION CONTROL BOARD
August 23, 1979

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 79-48
)
CITY OF CHESTER,)
a municipal corporation,)
)
Respondent.)

MR. STEPHEN GROSSMARK, ASSISTANT ATTORNEY GENERAL, APPEARED ON
BEHALF OF THE COMPLAINANT.

HON. STANLEY A. MACIEISKI, MAYOR OF THE CITY OF CHESTER, APPEARED
ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the March 8, 1979
Complaint brought by the Illinois Environmental Protection Agency
("Agency"). Count I of the Complaint alleged that, from June 26,
1978 until September 20, 1978 (including, but not limited to,
September 5, 1978), the City of Chester bypassed untreated
wastewater containing settleable solids, floating debris, visible
oil, grease, scum, and sludge solids around its wastewater treat-
ment facility and discharged the untreated wastewater into the
Mississippi River. The Respondent allegedly failed to notify the
Agency of this bypass and neglected to submit to the Agency a plan
to prevent recurrence of such incidents in violation of a special
condition in its NPDES Permit. Count I also alleged that, during
the same time period, the Respondent caused and allowed the effluent
of its wastewater treatment facility to contain BOD₅ and total
suspended solids in excess of the limits set out in its NPDES
Permit No. IL-0028045. Such conduct allegedly constituted
violations of Rules 403 and 602 of Chapter 3: Water Pollution
Control Regulations ("Chapter 3") and Section 12 of the Illinois
Environmental Protection Act ("Act"). Count II of the Complaint
alleged that, from October, 1977 to September, 1978, the Respondent
failed to report influent BOD₅ and influent suspended solids levels
to the Agency and, for the month of August, 1978, failed to submit a
discharge monitoring report to the Agency in violation of its

NPDES Permit conditions and Rule 901 of Chapter 3 and Section 12 of the Act. A hearing was held on July 26, 1979. The parties filed a Stipulation and Proposal for Settlement on July 31, 1979.

The Respondent, the City of Chester, is a municipal corporation organized under the laws of the State of Illinois and is located in Randolph County, Illinois. It operates a wastewater treatment facility which discharges effluent into the Mississippi River pursuant to a currently valid NPDES Permit which expires on July 31, 1981.

The relevant NPDES Permit condition reads as follows:

"The diversion or bypass of any discharge from the treatment works by the permittee is prohibited ... The permittee shall notify the permit issuing authority in writing within 72 hours of ... diversion or bypass ... The permittee shall within 30 days after such incident submit for approval a plan to prevent recurrence of such incidents."

It is stipulated that, from June 26, 1978 until September 20, 1978, the City of Chester bypassed untreated wastewater containing settleable solids, floating debris, visible oil, grease, scum and sludge solids around its wastewater treatment facility and discharged the untreated wastewater into the Mississippi River in violation of the aforementioned NPDES Permit condition. (Stip. 3-4). Moreover, the City of Chester admittedly failed to notify the Agency of the bypass and neglected to submit to the Agency a plan to prevent recurrence of such incidents. (Stip. 4). Additionally, from June 26, 1978 until September 20, 1978, the Respondent allowed the effluent from its wastewater treatment facility to exceed the limits for BOD₅ and total suspended solids which were delineated in its NPDES Permit. For example, on September 5, 1978, although the effluent limit for BOD₅ in the Respondent's NPDES Permit is 300 mg/l, the effluent from its wastewater treatment plant measured 440 mg/l of BOD₅. Similarly, while the effluent limit in its NPDES Permit for total suspended solids is 195 mg/l, on September 5, 1978, total suspended solids in the Respondent's effluent measured 300 mg/l. (Stip. 4-5). It is also stipulated that the City of Chester failed to submit a discharge monitoring report to the Agency for the month of August, 1978, and failed to report influent BOD₅ and influent suspended solids levels to the Agency from October, 1977 until September, 1978. (Stip. 5).

The proposed settlement agreement provides that the Respondent shall: (1) immediately come into compliance with the Board's Water Pollution Control Regulations and the Act, (2) cease and desist from further violations, and (3) pay a stipulated penalty of \$1,750 .

In evaluating this enforcement action and proposed settlement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria set forth in Section 33(c) of the Illinois Environmental Protection Act. The Board finds the stipulated settlement acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Board finds that the Respondent, the City of Chester, has violated Rules 403, 602, and 901 of Chapter 3: Water Pollution Control Regulations and Section 12 of the Act and orders the Respondent to cease and desist from further violations. The Respondent is hereby ordered to immediately come into compliance with the Board's Water Pollution Control Regulations and the Act. The stipulated penalty of \$1,750 is hereby assessed against the Respondent.

The Board has also considered the NPDES Permit issue in light of the decision by U.S. Court of Appeals in Citizens for a Better Environment v. EPA, No. 78-1042, _____ F. 2d _____ (7th Cir. 1979), and finds that the Board has competent jurisdiction over the subject matter in the Complaint pursuant to Sections 11(b), 12(f) and 13(b) of the Act and the Board regulations established thereunder.

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 has violated Rules 403, 602, and 901 of Chapter 3: Water Pollution Control Regulations and Section 12 of the Act.

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

3. The Respondent shall immediately come into compliance with the Board's Water Pollution Control Regulations and the Act.


4. Within 45 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$1,750 which is to be sent to:

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

5. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed July 31, 1979, which is incorporated by reference as if fully set forth herein.

Dr. Satchell abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 23RD day of August, 1979 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board