

ILLINOIS POLLUTION CONTROL BOARD
May 20, 1976

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-129
)
)
 CITY OF FARMINGTON,)
)
 Respondent.)

Mr. Anthony B. Cameron, Assistant Attorney General, appeared on behalf of Complainant.
Mr. D. Dean Wilbon, Attorney At Law, Appeared on behalf of Respondent.

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

This matter comes before the Pollution Control Board (Board) on a complaint filed by the Environmental Protection Agency (Agency) on March 25, 1975 against Respondent City of Farmington, Illinois (Farmington). A hearing was held in Farmington on June 27, 1975, at which time Farmington and the Agency orally stipulated as to the existence of the violations alleged in each and every count of the Agency's complaint (R.7). On January 26, 1976, the parties moved the Board to re-open the record in this matter. Said motion was granted and the record re-opened on January 29, 1976 for a period of sixty days for the purpose of an additional hearing. A second hearing was held April 8, 1976 at which a stipulation and proposed settlement were presented to the Board. Said settlement requests the Board to modify its Order in PCB 75-346. That Order required Farmington to install a grit chamber and chlorination facility no later than January 31, 1976. The Agency and Farmington now request that the grit chamber requirement be deleted upon certain conditions. The Board finds that the parties' proposal to modify a previous Board Order some two months after compliance was to be completed to be inappropriate. Indeed, if Respondent seeks variance from a Board Order, it should do so through the variance procedures provided in

the Board Procedural Rules. The Board will reject the April 8, 1976 Stipulation. Therefore, as the issues of the violations have been resolved, it remains for the Board to consider the record in this case concerning facts and circumstances bearing upon the reasonableness of the discharges involved (Section 33(c) of the Act).

Farmington owns and operates a sewage treatment plant which discharges into Littler's Creek, a body of water of the State of Illinois, tributary to Spoon River. Farmington admits to having violated Section 12(a) of the Illinois Environmental Protection Act (Act), and Rules 203(d), 402, 403, 404(a), 405, 501(a), and 1201 of the Water Regulations of this Board. More specifically, for example, Farmington has discharged raw fecal material into Littler's Creek (page 3 of Complaint). Farmington has discharged materials which emit strong odors and create conditions harmful or toxic to aquatic life (page 5 of Complaint). Farmington has failed to file true, correct, and complete reports as required by the Agency (page 8 of Complaint) and has failed to provide a properly certified operator for its plant (page 9 of Complaint). These violations pose a definite threat to the health and welfare of the inhabitants of the Farmington area.

Any sewage treatment plant has an inherently high social value. However, that value falls drastically if the plant, as in the instant case, is not operated properly. Furthermore, an improperly maintained plant cannot be suitable for any area regardless of the size of the community it serves. Clearly, the "social value" and "suitability" of a plant are dependent upon its operating properly. The fact of these improper operations is admitted through the allegations of paragraphs 4 and 5 of Count I of the Complaint, and also reflected in the Agency's prayer for relief.

The technical practicability and economic factors in this case clearly show that Farmington has not exhibited good faith efforts to comply with the requirements of the Act and Water Regulations. Farmington has admitted to violations dating back to July 27, 1971 (Complaint, p. 2). However, not until April of 1975, after the filing of the instant enforcement action, did Farmington attempt to repair its trickling filter (R.17), distributor arm, or dosing chamber (R.17), install a flow meter (R.17), or cease the bypassing of material which was well within the capacity of the plant to handle (R.18). These are not unusual economic burdens for a sewage treatment plant. They represent merely the accumulation of neglected duties of normal maintenance. Farmington has given no evidence to suggest that it has not been feasible to provide for the normal maintenance of its plant. The fact that Farmington readily incurred these expenses when faced with an enforcement action, and the history of neglect which is apparent from the record, leads directly to the

conclusion that Farmington made a conscious decision to allow its plant to deteriorate (see also R.56).

Further, the total cost of the purchase and installation of a grit chamber and chlorination unit is \$13,000 (R.28); not a prohibitive cost. There is no evidence that it was not just as feasible an improvement of the plant's operating efficiency four years ago, especially given an effluent with fecal coliform of up to 7,400,000 per 100ml (Complaint, p. 3).

Farmington has stated that the existing plant has been capable of meeting standards of 40 mg/l BOD₅ and 50 mg/l suspended solids (R.19-20). Instead, it allowed the plant to discharge effluent with up to 330 mg/l BOD₅ and 362 mg/l suspended solids (Complaint, p. 3). The costs of controlling these discharges would have been those of normal maintenance. Thus, while Farmington's recent attempts to return the plant to a proper operating condition, construct a grit chamber and chlorination unit, purchase certain measuring equipment and facilitate construction of a new plant by the Farmington Sanitary District (R.23) are positive steps, they do not outweigh the years of neglect which have caused totally unnecessary and unreasonable damage to the environment of the State of Illinois.

On September 4, 1975 Farmington filed a Petition for Variance for the same facility from Water Regulation 404(f). In PCB 75-346 (December 18, 1975) the Board found that Farmington's existing plant would not reasonably meet the standards of 4 mg/l BOD₅ and 5 mg/l suspended solids, and granted a variance subject to four conditions. The Board here finds, having a more complete record in the instant case, that several additional conditions are warranted. These additional conditions contain more specific instructions as to the operating of the plant and operating reports.

On the matter of operating reports, the Board is permitting measurement of BOD₅ and suspended solids to be determined by six samplings per eight-hour shift, rather than by a 24-hour composite sample as required by Rule 401(c) of the Water Regulations. The reasons are the potential savings of \$3,000 per annum (R.4) and the fact that the existing plant is to be closed within a few years. However, Farmington should also consider that the new plant would be required to use the 24-hour composite method and that if such device were purchased at this time, it could probably be used in the future plant also. This penalty is not designed as a punishment, but rather to show Farmington that they have a duty to obey the Act and the Board's rules every day, and not just when faced with an enforcement action. Were the Board to fail to penalize such flagrant and patently unreasonable violations as in the instant case, it would

jeopardize the integrity of the entire enforcement program. The Board finds a penalty of One Thousand Dollars (\$1,000) to be appropriate in this case.

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. Respondent City of Farmington is found to have violated Section 12(a) of the Environmental Protection Act, and Rules 203(d), 402, 403, 404(a), 405, 501(a), and 1201 of Chapter 3: Water Pollution, of the Pollution Control Board's Rules and Regulations. With respect to those violations:

A. Respondent shall begin submission of monthly operating reports within 30 days of this Order which the Environmental Protection Agency shall, in the exercise of its reasonable discretion, find acceptable. These reports shall include:

1. BOD₅ levels determined by six samplings per eight-hour shift.
2. pH by grab samples, once weekly.
3. Chlorine residual by grab samples taken five times per week.
4. Suspended solids determined by six samplings per eight-hour shift.

B. Respondent shall place operation of the sewage treatment plant under active supervision of a properly certified operator within 30 days of this Order, or upgrade the current operator, one Bruce Meade, to proper certification on or before July 1, 1976.

C. Respondent shall begin pre-treatment, proper handling and proper storage or disposal of all sludge at the subject plant within 120 days of this Order.

D. Respondent shall permanently secure the

adjustment of the bypass structure permitting by-passing only when flow to the plant exceeds 1 MGD.

E. Respondent City of Farmington shall, for the violations found above, pay a penalty in the amount of One Thousand Dollars (\$1,000), payment to be made by certified check or money order within 30 days of the date of this Order to:

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

2. Respondent City of Farmington shall submit monthly progress reports to the Environmental Protection Agency, Division of Water Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706, detailing progress on construction of the grit chamber and chlorination facility, and as to items 1(B) and (C) of this Order, beginning no less than 30 days after the date of this Order.

Mr. Young abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 20th day of May, 1976 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board