

ILLINOIS POLLUTION CONTROL BOARD
November 5, 1981

ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 80-23
)
CITY OF BENLD,)
)
Respondent.)

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

MR. RICHARD J. MENO, DENBY, DOBBS, MENO AND BLOOMER, P.C.,
APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by D. Anderson):

This matter comes before the Board upon a complaint filed January 30, 1980 by the Illinois Environmental Protection Agency (Agency) naming as respondent the City of Benld (Benld). The complaint alleges violation of Sections 12(a), 12(f) and 9(a) of the Illinois Environmental Protection Act (Act) and Rules 401(c), 402, 403, 405, 410(a), 601(a), 901 and 1201 of Chapter 3: Water Pollution in connection with operation of a municipal wastewater treatment plant in Macoupin County. A public hearing was held in Carlinville on July 28, 1981. No members of the public attended. The parties presented a partial settlement agreement which was filed with the Board on September 9, 1981.

Benld operates a municipal wastewater treatment plant which discharges to Cahokia Creek pursuant to NPDES Permit No. IL 0020885. The plant comprises a pumping station, Spirahoff tank, trickling filter and final settling tank. In addition there is a lift station near West Hickory Street. Benld has a population of 1,638.

The following is a summary of the allegations of the complaint:

<u>Count</u>	<u>Section/Rule</u>	<u>Summary</u>
I	§12(f) Rule 901	Violation of NPDES permit condition requiring monitoring and reporting of flow

<u>Count</u>	<u>Section/Rule</u>	<u>Summary</u>
II	§12(f) Rule 410(a)	Violation of NPDES permit effluent limitation of 400 fecal coliform per 100 ml and condition requiring monitoring and reporting
III	§12(a) Rules 401(c) and 405	Violation of fecal coliform effluent standard
IV	§12(a) Rules 402 and 403	Violation of effluent and water quality standards relating to offensive discharges and unnatural sludge and bottom deposits
V	§12(a) Rule 601(a)	Lift station malfunction
VI	§12(a) Rule 1201	Failure to employ at least a Class II operator (sic)
VII	§12(f) Rule 410(a)	Violation of NPDES permit effluent limitations of 4 mg/l 5-day biochemical oxygen demand (BOD) and 5 mg/l total suspended solids (TSS) ("4/5")
VII	§9(a)	Emission of odors so as to cause air pollution

Benld has stipulated that it violated the Act and Board rules as alleged in the complaint on numerous specific dates between January 1, 1977 and January 28, 1980. The stipulation provides a detailed compliance plan but no penalty is fixed. Benld presented testimony in mitigation at the hearing and the parties attached to the stipulation exhibits concerning the proper penalty.

The settlement provides for the following: repair or replacement of pumps at the Hickory Street lift station; replacement of baffles in the Spirahoff tank; proper maintenance and cleaning of sludge drying beds; regular maintenance of motors and other equipment; regular filter cleaning and painting; and, repairs to trickling filter. The settlement also provides a detailed schedule whereby the current operator, Lynn Schmidt, is to obtain Class 3 certification in no event later than May 31, 1982. Benld will retain a Class 3 operator within thirty days of three specified events: termination of employment of the current operator; failure of the operator to satisfy two specified dates for completion of courses; or, failure to satisfy the final deadline for certification.

The Board accepts the settlement agreement pursuant to Procedural Rule 331. The Board finds Benld in violation of Sections 12(a), 12(f) and 9(a) of the Act and Rules 402, 403, 405, 410(a), 601(a), 901 and 1201 of Chapter 3: Water Pollution. The Board finds no violation of Rule 401(c), the averaging rule.

Benld was the subject of a previous enforcement action involving substantially the same violations (EPA v. Benld, PCB 75-372, 21 PCB 313, May 6, 1976). Benld was fined \$400 and ordered to comply with an agreed compliance plan. There is no indication that any of this was carried out.

The Board notes that the 4/5 permit condition was apparently required by Rule 404(f), which set a 4/5 effluent standard. Rule 404(f) has been repealed. However, the BOD and TSS levels here are far in excess of 30/30, the most lenient standards for any source (R77-12, Docket C, May 1, 1980; 4 Ill. Reg. No. 5, p. 41, February 1, 1980; 4 Ill. Reg. No. 20, p. 53, May 16, 1980).

The Board also notes that this case involves gross pollution and accumulation of sludge deposits in the bed of Cahokia Creek. There is significant injury to and interference with the public health and general welfare. The social and economic value of the treatment plant is reduced by improper operation. There is no question as to suitability of the site, or the technical practicability of compliance. Most of the evidence received relates to economic reasonableness.

The Agency notes that Benld saved over \$3,100 through delaying compliance. The Agency estimates the following savings: \$418.83 by deferring for 39 months purchase of two pumps costing \$13,000; \$2,634.30 by deferring for 18 months the hiring of a certified operator; and, \$60 by failing to test for fecal coliform on four instances.

Benld has presented testimony concerning the City's financial difficulties. The Board has substantially reduced the penalty after considering the mitigating circumstances delineated in Section 33(c) of the Act as outlined above.

In view of the seriousness of the pollution and Benld's inaction following the earlier Board order, and in view of the mitigating circumstances, the Board finds that a penalty of \$300 is necessary to aid enforcement of the Act. This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

1. Respondent, the City of Benld, is in violation of Sections 12(a), 12(f) and 9(a) of the Act and Rules 402, 403, 405, 410(a), 601(a), 901 and 1201 of Chapter 3: Water Pollution.

2. Respondent shall cease and desist violations of Sections 12 and 9 of the Act and Chapter 3.

3. Within 30 days of the date of this Order, Respondent shall repair or replace with submersible pumps the ejection pumps at the Hickory Street lift station.

4. Within 30 days of the date of this Order, Respondent shall replace the baffle in the Spirahoff tank.

5. Respondent shall follow proper maintenance practices for periodically cleaning out sludge drying beds in order to control odors.

6. Respondent shall develop and implement a written maintenance schedule including lubrication of motors and other moving parts. Respondent shall make records of maintenance operations performed and retain these for Agency inspection.

7. Within 60 days of the date of this Order, Respondent shall complete necessary painting of filters. Thereafter, Respondent shall implement a schedule of regular filter cleaning and painting.

8. Within 30 days of the date of this Order, Respondent shall complete all needed repairs to the trickling filter basin.

9. Respondent shall retain the services of a properly certified Class 3 operator within 30 days of any of the following events, whichever occurs first:

- a) If the current certified operator becomes no longer employed as the certified operator for Benld; or
- b) If the current operator does not obtain Class 3 certification before May 31, 1982; or
- c) If the current operator fails to meet either of the deadlines for completion of wastewater courses as specified in the stipulation filed September 9, 1981, which is hereby incorporated by reference.


10. Within 35 days of the date of this Order, Respondent shall, by certified check or money order payable to the State of Illinois, pay a civil penalty of \$800 which is to be sent to:

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

IT IS SO ORDERED.

Mr. Goodman concurred.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 5th day of November, 1981 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board