

ILLINOIS POLLUTION CONTROL BOARD  
October 14, 1976

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 76-125  
 )  
 CARGILL, INC., )  
 a Delaware Corporation, )  
 )  
 Respondent. )

Mr. John T. Bernbom, Attorney for Complainant  
Mr. Kenneth J. Gumbiner, Pedersen & Houpt, Attorney for  
Respondent

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

This matter comes before the Board on a two count Complaint filed May 4, 1976, by the Environmental Protection Agency charging that Cargill, Inc. has discharged contaminants to the Fox River in violation of the effluent standards, and resulting in water pollution in further violation of Section 12(a) of the Act. Hearing was held in this matter on July 20, 1976 at which time the parties announced they were entering into a Settlement Stipulation.

Respondent Cargill owns and operates a facility that manufactures synthetic resins and other products located in Carpentersville, Kane County. Stormwater from this facility discharges into the Fox River; it is also apparent that certain process wastewater collected in holding tanks was permitted to enter this storm sewer through an overflow.

Agency reports indicate that Agency field personnel first visited Respondent's facility on November 26, 1975, after receiving reports of a chemical spill to the Fox River near Respondent's storm tile discharge outlet. After an inspection of the surrounding area, Agency field personnel contacted officials of Respondent to inform them of the Agency observations. The company officials stated that the contaminants could not have been from the plant because all process wastes were collected in underground waste holding tanks that were periodically emptied and the contents incinerated. As it developed, the underground holding tanks used by Respondent were the same tanks as used by a prior owner of the property, and that an overflow provision did exist allowing process wastes to be discharged into the storm tile.

Agency field personnel returned to the site on December 3, 1975, after again receiving reports of a chemical spill to the Fox River. The Agency reports, memoranda and analyses reflecting the conditions caused by Cargill's discharge all indicate a serious pollution hazard was created on that date (Attachment A). Grab samples indicate that while upstream BOD and SS concentrations were 8 and 33 respectively, samples taken 15 feet downstream of the storm sewer discharge indicate BOD and SS concentrations of 6000 and 3200 respectively. The discharge caused the Fox River to become a beige brown color, with an oil sheen for 15-20 feet out from the river banks and for several hundred feet downstream. The discharge carried a strong solvent type odor. In view of the serious nature of this chemical spill, Agency personnel began to make routine inspections relative to Respondent's discharge. On several other dates, the discharge was described as having a strong solvent type odor and containing a thick resinous material. Obvious collections of the material were noted in several locations downstream. In view of these conditions, Respondent instituted a program to seal the overflows and to construct a wastewater treatment facility.

The Settlement Stipulation provides that Cargill will install a wastewater treatment facility costing in excess of \$150,000.00 that will eliminate all existing violations of the Act and regulations. Cargill also agrees to pay \$2000.00 to the State of Illinois upon receipt of the Order of the Board approving this Settlement Stipulation.

On the basis of the foregoing and the Settlement Stipulation in this matter, the Board finds that on December 3, 1975 Respondent did discharge contaminants in such quantities as to cause water pollution in violation of Section 12(a) of the Act. The Board also finds that Cargill discharged an effluent containing visible oil, floating debris and sludge solids and failed to reduce color, odor and turbidity of the effluent to below obvious levels, in violation of Rule 403 and Section 12(a) of the Act. The Board further finds that this effluent from Cargill caused the Fox River to contain unnatural sludge, bottom deposits, floating debris, visible oil, unnatural color and turbidity, in violation of Rule 203(a) and Section 12(a) of the Act. Because of this discharge and the water pollution caused the Board further finds that from November 26, 1975 until the filing of the Complaint, Respondent failed to take reasonable measures to prevent the spillage of contaminants from causing water pollution in violation of Rule 601(b) and Section 12(a) of the Act. Because of a pleading deficiency, the Board will dismiss the charges alleging violation of the effluent standards, Rules 404(a) and 408(a). The Board has held that a violation of the five-times rule is a violation of Rule 401(c) itself, rather than Rule 404 (and 408), and since Rule 401 was not mentioned in either the Complaint or Stipulation, the charges will be dismissed. EPA v. County of Lake, PCB 75-507.

The Board finds \$2,000.00 is sufficient penalty for the violations found herein and will assess that amount as the penalty. Respondent will also be required to have its new wastewater treatment facility operational by September 30, 1976.

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

ORDER

1. Respondent, Cargill, Inc., has violated Rules 203(a), 403, and 601(b) of Chapter 3: Water Pollution Regulations and hence Section 12(a) of the Act and has also caused water pollution in violation of Section 12(a) of the Act. The Board will assess a penalty of \$2,000.00 for these violations; penalty payment by certified check or money order payable to the State of Illinois shall be made within 35 days of the date of this Order to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois, 62706.
2. Respondent shall continue to expeditiously construct the wastewater treatment facility permitted by Agency permit #1976-747.
3. Respondent shall complete such construction and have its wastewater treatment facility operational by September 30, 1976.
4. Respondent shall operate its wastewater treatment plant in such manner as to achieve compliance with the Act and regulations.
5. That portion of the Complaint alleging violations of Rules 404(a) and 408(a) are hereby dismissed.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 14<sup>th</sup> day of October, 1976 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board