

ILLINOIS POLLUTION CONTROL BOARD
November 20, 1980

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 77-333
)
OLIN CORPORATION,)
)
Respondent.)

ANN L. CARR, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE
COMPLAINANT.

RANDALL ROBERTSON, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE
RESPONDENT.

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

This matter comes before the Board on the December 14, 1977 Complaint brought by the Illinois Environmental Protection Agency ("Agency") which alleged that Olin Corporation (the "Company") modified its wastewater treatment facilities by installing chlorination equipment without first obtaining a Construction Permit from the Agency in violation of Rule 951(a) of Chapter 3: Water Pollution Control Regulations and Section 12(b) of the Illinois Environmental Protection Act ("Act"). After numerous discovery motions were filed, extensive settlement negotiations ensued, and a hearing was held on September 12, 1980. The parties filed a Stipulation and Proposal for Settlement on September 16, 1980.

The Respondent, a Virginia corporation licensed to do business in Illinois, operates a brass strip and small arms ammunition plant in East Alton, Madison County, Illinois which currently employs about 4,300 workers. (Stip. 2). The parties have indicated that wastewater from the Respondent's "brass strip, fabricated products, metallic and shot shell ammunition and primer explosive processes and from its potable water treatment plant and steam generating plant" is discharged to, and treated at, the Company's Zone 6 wastewater treatment facility (the "facility" or "plant"), which in turn discharges to the East Fork of the Wood River. (Stip. 2).

At the time that the Respondent modified its plant by installing chlorination equipment to oxidize a color-causing organic which was in its effluent, the Company possessed NPDES Permit No. IL 0000230 which had been issued to the Respondent by the United States

Environmental Protection Agency ("USEPA") on November 10, 1976. (See: Exhibit A; Stip. 2-3). The Illinois Environmental Protection Agency did not begin to issue NPDES Permits until October 24, 1977. (Stip. 3).

On December 15, 1976, an Agency inspection revealed that construction of the chlorination equipment was in progress. During that inspection, the Respondent was informed that, under the Agency's interpretation of the Board's regulations, the Company needed a Construction Permit for the chlorination equipment. In a letter dated December 16, 1976, the Agency formally notified the Company that it believed a permit was necessary. (See: Exhibit B).

On January 3, 1977, representatives of the Company and the Agency conducted discussions pertaining to the necessity for a permit. The Company's position was that "it did not need a Construction Permit for the chlorination equipment because it had an NPDES Permit issued by the USEPA, which, pursuant to Section 12(f) of the Act, is deemed a permit 'issued by the Agency'." (Stip. 5). On the other hand, the Agency's position was that the Company needed a permit because it did not fall within the exception in Rule 951(a) of the Board's Water Pollution Control Regulations.

The Agency based its position on language found in the Board's Opinion of December 5, 1974 in R73-11 & 12 which was issued in support of the Board's NPDES Regulations. This Board Opinion provided that:

"Rule 951 requires a Construction Permit for all dischargers including those who have obtained an NPDES Permit from the U.S. EPA, until such time as the Agency begins to issue NPDES Permits containing an authorization to construction (sic) provisions." 14 PCB 679.

On January 5, 1977, the Company submitted "plans and specifications for the chlorination equipment" to the Agency, "while preserving its legal position by not also submitting a Permit Application." (Stip. 6).

In its letter of February 8, 1977, the Agency notified the Company that additional information was required to determine "whether chlorinating the organics in the discharge would result in a toxic discharge" in violation of the Board's Water Pollution Control Regulations. (Stip. 6; Exhibit C).

On November 23, 1977, the Company sent the Complainant a letter which provided the Agency with additional engineering data and results of laboratory analysis" in which Olin chlorinated samples of its effluent to determine the nature of the by-products." (Stip. 7; Exhibit D).

The parties have stipulated that the Company could "present evidence that those by-products were 1, 2-dichloroethylene,

chloroform, and 1, 1, 1-trichloroethane in concentrations of less than 5 ppb, 3.8 ppb, and 10.6 ppb (all parts per billion), respectively (Exhibit D)", while the Agency could "present evidence that all three of those by-products have been listed as toxic pollutants pursuant to Section 307(a) of the Clean Water Act (Exhibit E)." (Stip. 7).

While such chemicals may have toxic effects on fish at higher concentration levels, the very low concentrations involved here were apparently harmless and had "no adverse effect on the biological systems of the water receiving said effluent". (Stip. 7). Thus, the parties have stipulated that there is no evidence of environmental injury which actually occurred due to the operation of the chlorination equipment. (Stip. 7).

Moreover, the Company has indicated that when the Agency filed its Complaint, the Company voluntarily shut down its chlorination equipment, and the equipment "has not been operated since that time". (Stip. 3).

The proposed settlement agreement provides that the Company, while not admitting any violations, agrees to: (1) never operate the chlorination equipment "which has been installed at the Zone 6 Wastewater Treatment Plant and which is the subject of this action again, without first obtaining an operating permit from the Agency" and (2) pay a payment of \$750.00 in settlement of this case. (Stip. 8-9).

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 delineated in Section 33(c) of the Act. The Board finds the stipulated agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act. A payment of \$750.00 in settlement of this case is hereby assessed against the Respondent. This case (PCB 77-333) is hereby dismissed.

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 Olin Corporation, shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed September 16, 1980 which is incorporated by reference as if fully set forth herein.
2. Within 30 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay the payment of \$750.00 in settlement of this case which is to be sent to:

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

3. This case (PCB 77-333) is hereby dismissed.

Dr. Satchell concurs.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 20th day of November, 1980 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board