

ILLINOIS POLLUTION CONTROL BOARD
April 17, 1980

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY and THE METROPOLITAN SANITARY)
DISTRICT OF GREATER CHICAGO,)
)
Complainants,)
)
v.) PCB 75-13
)
INTERLAKE, INC.,)
)
Respondent.)

MR. JOHN BERNBOM, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT ILLINOIS ENVIRONMENTAL PROTECTION AGENCY;

MR. PHILIP ROTHENBERG, SENIOR ASSISTANT ATTORNEY, APPEARED ON BEHALF OF THE METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO;

MR. JAMES T. HARRINGTON AND MS. DIXIE LEE LASWELL, ROOKS, PITTS, FULLAGAR AND POUST, APPEARED ON BEHALF OF RESPONDENT INTERLAKE, INC.

OPINION OF THE BOARD (by Mr. Goodman):

This Opinion supports the Order herein entered on April 3, 1980.

This enforcement case was filed by the Illinois Environmental Protection Agency (Agency) and the Metropolitan Sanitary District of Greater Chicago (MSD) on January 8, 1975, alleging that Interlake, Inc. (Interlake) was in violation of Rule 703(a) of the Illinois Pollution Control Board's Rules and Regulations, Chapter 3: Water Pollution (Regulations) and Section 12(a) of the Illinois Environmental Protection Act (Act). This action involves effluent from Interlake's blast furnace and coke oven facility located in Chicago, Illinois, which effluent is discharged into the sewers of the City of Chicago and thence into a sewer owned by MSD.

On January 29, 1975, Interlake filed an answer and filed a counterclaim for variance which the Board docketed as PCB 75-44. On February 6, 1975 the Board ordered PCB 75-13 stayed pending the conclusion of two relevant cyanide regulatory proceedings, R74-15 and R74-16. On April 4, 1975, proceedings PCB 75-13 and PCB 75-44 were consolidated upon Complainants' motion. On November 30, 1978, upon adoption of the final Order

by the Board in R74-15 and R74-16, the Board vacated the stay of February 6, 1975 and ordered hearing held within sixty days. Thereafter, various hearings were held and on July 31, 1979 a Stipulation and Proposal for Settlement was filed with the Board. In its September 20, 1979 Interim Order, the Board rejected the proposed Stipulation and Proposal for Settlement, severed PCB 75-13 and PCB 75-44, and remanded both cases for further action. After additional hearing on March 19, 1980 a new Stipulation and Proposal for Settlement was filed. On March 19, 1980, the parties filed a joint motion for expedited consideration of the enforcement case PCB 75-13. The Board hereby grants the joint motion.

This matter has been before the Board for more than five years. A good portion of that time elapsed during the Board-ordered stay. This Opinion addresses only PCB 75-13 and does not address the variance petition in PCB 75-44.

The subject matter of this enforcement action is a facility owned and operated by Interlake in Chicago, Illinois, which contains a coke plant and a blast furnace operation, both of which generate waste water containing cyanide. The cyanide is discharged to a sewer owned by the City of Chicago and then to a sewer owned by MSD. The Settlement stipulates that the concentration of total cyanide in the coke plant and blast furnace waste water discharges has exceeded 0.25 mg/l since about April, 1972 and continues to the present time. In addition, since 1974 and to the present time the waste water discharge from the coke plant has contained concentrations of total cyanide in excess of 10 mg/l and contained more than 2 mg/l when tested at a pH of 4.5 mg/l at 150 degrees Fahrenheit for thirty minutes. These figures are the limitations adopted by the Board on September 7, 1978 in amendments to Rule 703(a) pursuant to the regulatory proceedings R74-15 and R74-16.

Interlake alleges that during the pendency of R74-15 and R74-16 the company had installed various interim control devices to limit the amount of cyanide being discharged to the Chicago and MSD sewers at a cost of almost \$500,000 (Settlement, Ex. A). Included among the alternatives investigated by Interlake were ozonation, and combined ammonia still and cyanide reduction systems. All were rejected for one reason or another, including but not limited to cost, fear of creating potential adverse chemical reactions., and lack of guarantees available on proprietary systems.

After a number of conciliation conferences with MSD, Interlake committed to install a system to achieve the levels contained in MSD's sewage and waste control ordinance (Settlement, Ex. C). Subsequent to the adoption of R74-15 and R74-16, Interlake was informed that MSD would not require Interlake to achieve a more stringent standard than contained in R74-15 and

R74-16. MSD determined that Interlake's cyanide discharges will not prevent MSD's own Calumet District Treatment Plant from meeting Rule 408(a) during execution of the proposed compliance plan contained in the Settlement.

The Settlement calls for Interlake to pipe the cyanide waste from the coke plant to the blast furnace recycling system where chemical reactions will produce stable ferrous-ferric cyanides. These cyanides will then precipitate and be removed by Interlake's clarifiers. It is the opinion of all parties hereto that these actions will meet the requirements of the present Board limitations on cyanide discharges to sewers, although the process represents innovative technology and has not yet been proven in practice.

The proposed schedule for implementation of the system is as follows:

COMMENCE FINAL DESIGN ENGINEERING	July 1, 1979 (Commenced)
COMMENCE PROCUREMENT	Thirty days after approval by the Pollution Control Board
SUBMIT PERMIT APPLICATIONS TO ALL APPROPRIATE AGENCIES	May 1, 1980
COMMENCE CONSTRUCTION	August 1, 1980
COMPLETE INSTALLATION AND ACHIEVE COMPLIANCE	December 15, 1980

The Settlement contains a force majeure clause which calls for the Board to resolve disagreements with respect to implementation of the system. Compliance by the dates scheduled depends upon final Board action herein prior to April 17, 1980 and upon the issuance of necessary permits by July 31, 1980. It is agreed by the parties that any slippage in the scheduled procurement and permit dates shall cause an extension of the schedule for a period equal to the delay. In the case of construction and installation, the time shall be extended by a period equal to either the delay or to the earliest date which would allow three consecutive months of construction during the construction season.

With regard to the penalty assessment, the MSD and the Agency are of the opinion that Interlake should have pursued its variance proceeding, notwithstanding the stay of this enforcement case. Interlake, on the other hand, feels that no penalty is appropriate since Interlake had no reasonable

assurance until after the final Orders in R74-15 and R74-16 that it could construct a system which would comply with the regulations.

Interlake proposes to pay certain penalties without admitting that any penalty is appropriate. These penalties are set forth in Paragraph 16 of the Settlement and include a penalty of \$14,500 for the violation and a payment of \$14,500 to MSD as reimbursement for expenses incurred. Under the Settlement, these penalties would satisfy any liability which Interlake might have to either the State of Illinois or MSD with respect to the discharge of cyanide to the Chicago and MSD sewers up to and including the date of the Board Order (April 3, 1980).


The Settlement contains paragraphs concerning reporting requirements, inadvertent excursions during start-up of the system, effects of future laws and regulations on the compliance plan, and a stipulation by the Agency and MSD that neither will cause any other enforcement action to be brought or initiated for Interlake's discharges of cyanide to the Chicago and MSD sewers during the period covered by the Settlement as long as Interlake is in compliance with each and every element of the Settlement.

The Board finds that the Settlement presented to the Board on March 19, 1980 is a reasonable resolution of the issues and that it reasonably protects the environment by providing a feasible compliance plan. The Board therefore accepts the Settlement and will order execution of its terms by the parties herein.

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

Mrs. Anderson abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board hereby certify that the above Opinion was adopted on the 17th day of April, 1980 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board