

ILLINOIS POLLUTION CONTROL BOARD
March 20, 1980

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 78-298
)
 JERSEY COUNTY FARM SUPPLY COMPANY,)
 an Illinois corporate cooperative,)
)
 Respondent.)

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

This matter comes before the Board upon a Complaint filed by the Agency on December 4, 1978. The Complaint alleged that Respondent discharged a liquid consisting of herbicides, insecticides and/or pesticides into waters of the state without a permit in violation of Rules 401, 403, 203, 901 and 916 of Chapter 3: Water Pollution and Sections 12(a) and 12(f) of the Act.

Count I of the Complaint alleges the discharge of a colored liquid from Respondent's custom spraying operation into a drainage ditch. The discharge allegedly occurred during the spraying seasons of 1975, 1976, 1977 and 1978. A description of Respondent's business (Complainant's Exhibit 2) states that various chemicals, including Atrazine, Lasso, Sutan and Treflan are utilized in the operation. They are received and stored at the facility, then dispensed into a liquid blender by the use of meters where they are mixed for application by spray trucks. The mixture is then sprayed on patrons' fields. Respondent has four trucks and four stainless steel nurse tanks used to nurse the spray rigs. The liquid blender is housed in a liquid blend room with a sloping floor going to a center drain. Garden hoses are used to wash down the concrete floor and the area outside of the blender. Hoses are also used to rinse off spray trucks every evening after the trucks are finished for the day and when spray trucks change, for example, from corn to bean herbicide. The resulting rinsate from both the blending room and truck wash is accumulated in a catch basin. Excess spray materials from these trucks are also dumped into the catch basin. This waste water leaves the wash rack area through a tile, flows to a septic tank and then goes into a

30,000 gallon holding tank. An overflow by-pass device, which was operational only when the septic tank and storage tank became full was eliminated in mid-June of 1978 to prevent waste material from flowing into the ditch to the south. The bypass device, which surfaced at the side of a ditch, had the potential to discharge liquids from the underground tank system to the ditch (Complainant's Ex. 6, R.19,20). The liquid is generated during the spraying season from washing of spray trucks, rinsing out of spray trucks and nurse tanks and rinsing of the liquid blender. Respondent has estimated the mixture as composed of 99% or more water and 1% or less pesticides. The yearly average minimum volume of materials in the holding tanks over the past 4 years has been 10,000 gallons. (Complainant's Ex. 2).

A witness for the Agency responded to a Complaint filed with the Jersey County Health Department in July of 1977 in which a discharge of agricultural chemicals into a roadside drainage ditch was alleged. (Complainant's Ex. 4, R. 15, 71-72). A yellow residue and complete lack of vegetation in the ditch was observed (Complainant's Ex. 4, R.16). Respondent admitted to problems in keeping the underground tanks from becoming full (Complainant's Ex. 4).

Subsequent to the 1977 investigation, a representative of the Respondent contacted the Agency to report that the discharge had been stopped and the amount of water reduced in the operation (R.68). A follow-up investigation in June of 1978 revealed a flow of bright yellow colored water in the ditch which is a tributary of Phil's Creek (R.34). Photographs were taken (Complainant's Ex. 6,7,8) and samples of the water were obtained (Complainant's Ex. 10,11,12,13). Testing of the substances from various sampling stations indicate that the toxicity levels generally exceeded one-tenth the lethal concentration for daphnia, bluegills, and fathead minnows which exist in streams having a very small amount of flow (Complainant's Ex. 14,15,16, R.136,161). This testing substantiated the allegations contained in Count II which alleged that the liquid discharged was not free from odor, contained unnatural color and turbidity, and was not treated in any manner (R.284-285). The substance was also described as toxic to aquatic life with concentrations in excess of applicable standards. On both occasions, in 1977 and 1978, measures to prevent the overflow were suggested by the Agency. Specifically, reduction in the amount of water used in the operation and disposal of water in the holding tank in an environmentally safe manner were suggested (Complainant's Ex. 5, R.28, 49).

Respondent admitted the discharge of agricultural chemicals into the drainage ditch resulting from overflows of its underground tank system (Complainant's Ex. 2, 1B,

R.290-291). This flow into the ditch, to the south of Respondent's property, constitutes a discharge of pollutants into the waters of the State without an NPDES permit in violation of Rule 901 as alleged in Count III of the Complaint. Respondent attributed the flow to malfunctioning systems in 1977 and an unusually wet spraying season which caused the tank to overflow in 1978. Respondent contends that the problems with the system have been alleviated and no further discharge will occur. Although no proof was adduced at the hearing which would substantiate the alleged violations occurring in 1975 and 1976, the discharges in 1977 and 1978 have been admitted and documented through photographs, water sampling and testing, and witnesses. The evidence reveals that concentrations of chemicals in the discharge exceeded the acceptable limits and caused damage to aquatic and vegetative life in the area.

Furthermore, Respondent's attempted demonstration of other sources of contamination was unsupported; i.e. runoff from road salt piles at the State of Illinois Highway Department facility nearby (R.320, 388).

After review of the factors in Section 33(c) of the Act, the Board finds that Respondent's discharge in 1977 and 1978 constituted a hazard to aquatic and vegetative life. A cease and desist order is appropriate to prevent further interference with the protection of the health, general welfare and physical property of the People of the State of Illinois as a result of Respondent's discharges. Methods for maintenance of Respondent's chemical spraying equipment which will result in a reduction of rinse water are available and appropriate for the type of operation involved. A \$1,500 fine, payable within 45 days of the date of this Order is imposed to aid in the enforcement of the Act.

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

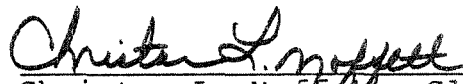
ORDER

- 1) Respondent has violated Rules 401, 403, 203, 901 and 916 of the Water Pollution Rules and Sections 12(a) and 12(f) of the Act.
- 2) Respondent shall cease and desist from any further violations of Rules 401, 403, 203, 901 and 916 and Sections 12(a) and 12(f) of the Act.
- 3) Within 45 days of the date of this Order, Respondent shall forward the sum of \$1,500 by certified check or money order, payable to the State of Illinois to:

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

IT IS SO ORDERED.

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 March, 1980 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board