

ILLINOIS POLLUTION CONTROL BOARD
August 11, 1994

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 83-150
) (Enforcement)
)
ARCHER DANIELS MIDLAND,)
)
Respondent.)

ORDER OF THE BOARD (by C. A. Manning):

This matter comes before the Board on a "Joint Motion for Modification" filed on April 29, 1994 by the Archer Daniels Midland Company ("ADM") pursuant to 35 Ill. Adm. Code 103.241(b)(1). ADM and the complainant, the Illinois Environmental Protection Agency ("Agency"), request the Board to modify its June 23, 1993 order and opinion. The proceeding was originally before the Board on a complaint alleging that ADM of Decatur, Macon County, Illinois, violated Sections 12(a) and 12(f) of the Environmental Protection Act ("Act"), 415 ILCS 5/12 (1992), as well as various sections of the Board's water pollution control regulations. On August 20, 1987, the Board issued an order accepting the parties' stipulation and proposal for settlement. On March 16, 1993, the parties filed a Joint Motion for Modification of Final Order. The Board granted that motion and issued an order on June 23, 1993 modifying the August 20, 1987 order.

In response to the April 29 motion, by order of May 19, 1994 the Board directed the matter to hearing pursuant to Section 31 of the Act. On May 31, 1994, the parties filed a motion for reconsideration of the May 19 order, as well as a joint motion for relief from the Section 31 hearing requirement pursuant to 415 ILCS 5/31(a)(2). The Board denied the motion to reconsider on June 23, but reserved ruling on the motion for relief pending publication of notice of the waiver and proposed modification. The Board published a notice of the waiver on July 11, 1994; no objection to grant of the waiver was received. Waiver of hearing is hereby granted.

BACKGROUND

This matter was originally before the Board upon a seven-count complaint filed by the Agency on October 3, 1983. The complaint alleged that ADM violated Section 12(a) and 12(f) of the Act and certain Board regulations. ADM owns and operates a facility located at 4666 Farries Parkway in Decatur, Illinois. The facility, commonly referred to as the "East Plant", consists of a soybean refinery, a corn sweetener plant, a grain milling and alcohol refinery plant, and associated buildings and transportation network. ADM's NPDES permit authorized it to discharge effluent at four discharge points. There are two discharge points into the north branch of Farries Park Creek, one discharge point is into Lake Decatur, and the last discharge point is into the south branch of Farries Park Creek.

The complaint alleged that ADM's discharged effluent was above the limitations set forth in its NPDES permit and Board regulations, that it failed to submit Discharge Monitoring Reports, failed to notify the Agency of the exceedences, and that its discharge contained settleable solids, floating debris, visible solids, obvious color, odor and/or turbidity. The parties filed a signed Stipulation and Proposal for Settlement on August 5, 1987. The proposed settlement agreement accepted by the Board provided that ADM agreed would pay a \$10,000 civil penalty and develop and implement a compliance plan to cure the violations.

THE REQUESTED MODIFICATION

Pursuant to the Board's June 3, 1993 order modifying the settlement agreement, ADM is required to place its proposed capture and treatment system into operation by July 1, 1994. ADM states that due to the unusually heavy rains during last summer and fall in the Decatur area, and due to the resultant high water table, construction of the proposed system, which had commenced in August, became impracticable since all major components of the system entail excavation. As a result, ADM argues that it cannot meet the deadline of July 1, 1994. ADM states that it has requested a permit modification from the Agency to reflect a completion date of October 1, 1994. The Agency appropriately takes the position that due to the Board's June 3, 1993 order it has no authority to alter the completion date of July 1, 1994 as established in the NPDES permit issued on January 25, 1994.

The parties request that the Board modify its June 3, 1993 order by modifying Condition 2(a) of the settlement agreement. This currently reads:

2. Archer Daniels Midland shall:
 - a) construct the capture and treatment system agreed to

pursuant to the schedule set forth in ADM's renewed NPDES permit issued on January 25, 1993.

The parties request that the Board add the following language:

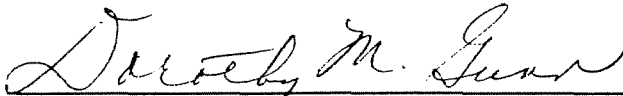
or as that schedule may be extended by the Agency through issuance of an NPDES permit modification following a demonstration by ADM that an extension is justified on the basis of acts or circumstances, including adverse weather and groundwater conditions, which are beyond the control of ADM.

The Board finds the requested modification to the settlement agreement acceptable pursuant to 35 Ill. Adm. Code 103.180. This modification to the settlement agreement in no way affects respondent's responsibility to comply with any federal, state or local regulations, including but not limited to the Act and the Board's pollution control regulations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act, (415 ILCS 5/41 (1192)), provides for appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motion for Reconsideration).

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 11th day of August, 1994, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board