

ILLINOIS POLLUTION CONTROL BOARD  
March 6, 1980

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 77-157  
 )  
 DECATUR SANITARY DISTRICT, A. E. )  
 STALEY MANUFACTURING COMPANY and )  
 ARCHER-DANIELS-MIDLAND COMPANY, )  
 )  
 Respondents. )

MR. REED NEUMAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. GUS T. GREANIAS, GREANIAS & BOOTH, APPEARED ON BEHALF OF RESPONDENT DECATUR SANITARY DISTRICT.

MR. LOUIS M. RUNDIO, JR., MCDERMOTT, WILL & EMERY, AND MR. KEITH CASTEEL, SAMUELS, MILLER, SCHROEDER, JACKSON & SLY, APPEARED ON BEHALF OF RESPONDENT A. E. STALEY MANUFACTURING COMPANY.

MR. WAYNE L. BICKES, ROSENBERG, ROSENBERG, BICKES & JOHNSON, APPEARED ON BEHALF OF RESPONDENT ARCHER-DANIELS-MIDLAND COMPANY.

INTERIM OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a complaint and amended complaint filed June 10, 1977 and August 18, 1978 by the Environmental Protection Agency (Agency) naming as Respondents the Decatur Sanitary District (Decatur), a corporation organized under Illinois law, A. E. Staley Manufacturing Co. (Staley) and Archer-Daniels-Midland Company (ADM), both Delaware corporations. Counts II and III of the amended complaint respectively allege that ADM and Staley violated Rule 701(a) of Chapter 3: Water Pollution by discharging into Decatur's sewers wastes which caused the effluent from the system to violate applicable effluent standards. The remaining counts allege violations by Decatur only. On January 21, 1980 a hearing was held in Decatur, Macon County, at which time settlement proposals between the Agency and ADM and between the Agency and Staley were presented. ADM and Staley moved for expedited consideration of Counts II and III separate from the counts involving only Decatur. There was no objection and the Hearing Officer submitted the motions to the Board. Members of the public attended the hearing but did not comment.

ADM operates a grain processing plant at 4666 Faries Parkway, Decatur. The plant employs about 850 persons. It discharges into Decatur's sewers, apparently via two pretreatment plants referred to as "Decatur East" and "Decatur West." These discharge to Decatur's Dipper Lane sewage treatment plant (STP). According to the amended complaint, this STP discharges to the Sangamon River via an unnamed ditch. There is no indication whether this is upstream or downstream of Lake Decatur.

Staley operates a corn wet milling and soybean processing plant employing about 2500 persons at 2200 Eldorado Street, Decatur. It discharges at three points to the Dipper Lane STP. It also has pretreatment facilities although few details are specified in the settlement proposal. At one time some wastes were discharged without pretreatment. It is not clear if this is still the case.

The Dipper Lane STP was substantially upgraded prior to May, 1977. It has a capacity of twenty-five million gallons per day and an organic loading of 291,000 population equivalents (P.E.). The population served by the district is 110,000 which contribute 80,000 P.E. exclusive of ADM and Staley. These two large dischargers are under separate contract with Decatur. ADM has a basic load allowance of 55,000 P.E. on a ten day moving average and 68,750 P.E. on a three day moving average. Staley has a basic load allowance of 110,000 P.E. on a ten day moving average and 137,000 P.E. on a three day moving average. These figures are to be met at least ninety-five per cent of the time. The applicable effluent standards for the Dipper Lane STP include 10 mg/l five day biochemical oxygen demand (BOD) and 12 mg/l total suspended solids (TSS).

ADM and Staley each admit that on certain unspecified dates when the STP was operating in excess of its design capacity and its effluent was in violation of applicable standards, their discharges to the system exceeded their basic load. Neither admits that it was the cause of the violation. However, based on the admissions, the Board finds that ADM and Staley have violated Rule 701(a) of Chapter 3 by causing the Decatur STP's effluent to violate applicable standards through excess organic loading.

ADM and Staley also disclaim responsibility for odors from the STP. However, there is no allegation in the complaint of any violation of this nature by these Respondents.

In 1977 ADM was in the process of establishing and implementing a plan to reduce its loading of Decatur's sewers. These include upgrading of the two pretreatment plants and process changes, including recycling of process and cooling water and repair of heat exchangers. Work is in progress to install a new recycle tank car washing system to reduce volume and organic loading in the refinery effluent and to install a sludge bag filter system to reduce suspended solids in the effluent. There is no indication of the cost to ADM of this work or of the extent of the reduction in loadings achieved.

Staley has expanded and upgraded its pretreatment facilities also. It has improved its warning systems to avoid discharges due to accidental process losses. It has increased the overall efficiency of its pretreatment processes from 80% to 85%. The direct cost of this program to Staley has been \$1,600,000. With some minor exceptions Staley has not exceeded its basic load since June 15, 1977.

The settlement proposals provide for penalties of \$3000 each from ADM and Staley. The agreements provide that the penalties are for any and all violations which could have been alleged. There is no provision for a cease and desist order and the parties expressly reserve all rights for future violations.

Without a doubt ADM and Staley have social and economic value and there is no question of their suitability to the area. From the steps actually taken it appears that it was technically practicable and economically reasonable to pretreat the discharges to an extent greater than that practiced in 1977. There is no evidence in the record on which the Board can base a finding as to the character and degree of the public injury which resulted from the discharges. Having considered Section 33(c) of the Environmental Protection Act, the Board finds the settlement proposals acceptable under Procedural Rule 331.

ADM and Staley's motions for expedited consideration are granted. This Partial Opinion and Order is the Final Opinion and Order of the Board with respect to these two Respondents. It is a final action of the Board which is appealable. However, this case will continue against Decatur.

In adopting this procedure the Board does not intend to encourage the future use of such partial settlements. In this case there are separate counts against these two Respondents which stand alone; they are not involved in the rest of the complaint. It is possible and efficient to consider these counts in isolation from the others. It is unlikely that this circumstance will arise often in the future.

This interim Opinion constitutes the Board's findings of fact and conclusions of law in this matter with respect to these two Respondents.

ORDER


1. The motions for expedited consideration are granted.
2. Respondents A. E. Staley Manufacturing Co. and Archer-Daniels-Midland Company have violated Rule 701(a) of Chapter 3: Water Pollution.
3. Within forty-five days of the date of this Order, Respondents A. E. Staley Manufacturing Co. and Archer-Daniels-Midland Company shall, by certified check or money order payable to the State of Illinois, each pay a civil penalty of \$3000 which is to be sent to:

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

IT IS SO ORDERED.

Messrs. Dumelle and Werner concur.  
Mrs. Anderson abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above interim Opinion and Order were adopted on the 6<sup>th</sup> day of March, 1980 by a vote of 4-0.

  
\_\_\_\_\_  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board