

ILLINOIS POLLUTION CONTROL BOARD
March 6, 1980

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 79-59
)
 JAMES RALSTON,)
)
 Respondent.)

MS. MARY E. DRAKE, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. JAMES RALSTON APPEARED PRO SE.

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

This matter comes before the Board upon a complaint filed on March 19, 1979 by the Environmental Protection Agency (Agency). The complaint alleges violations of Section 12(a) of the Environmental Protection Act (Act) and Rules 203, 401 and 403 of Chapter 3: Water Pollution (Chapter 3). Count III apparently was meant to allege a violation of NPDES provisions of Section 12(f) of the Act and Chapter 3; however, the count is deficient in information and will be dismissed. A hearing was held on December 12, 1979. At the hearing a statement of stipulated facts was presented to the Board.

Respondent owns and operates a farm which is located approximately two miles north of the Village of Hettick, Macoupin County, Illinois. Respondent raises hogs and cattle at his farm. Respondent raises approximately 200 to 300 hogs in a confinement facility and about 350 head of cattle are raised on a three acre lot directly north and northwest of the Ralston farm. Mr. Ralston also has 1500 acres of cropland.

Adjacent to the hog confinement facility is a ravine which flows to a tributary of Solomon Creek. The ravine and the tributary of Solomon Creek flow intermittently and are, along with Solomon Creek, waters of the State of Illinois. Hog manure from the confinement facility is stored in a pit located under the slatted floor of the facility at Respondent's farm.

During the day on July 5, 1978 the Respondent's employee, at the direction of Respondent, pumped approximately 15,000 gallons of hog manure from the pit located under the floor of the confinement facility to the ravine. On July 7, 1978 a former Agency

inspector, Bruce Goff, investigated Respondent's farm. Mr. Goff made observations, took photographs and collected samples. Mr. Goff observed where the manure had been pumped and stream conditions downstream.

The liquid hog manure, which had been pumped into the ravine, flowed down one side of the ravine and ended up in the tributary of Solomon Creek. At one point on the tributary the manure was about six inches deep. The tributary was completely filled for about 100 yards. It is about 1800 yards from the point where the manure entered the tributary from the ditch to the point where the tributary feeds into Solomon Creek.

Upstream from the tributary, Solomon Creek was in good condition. The water was clear and the stream bottom contained sand and gravel. At a point approximately ten yards upstream of Solomon Creek's confluence with the tributary water samples showed:

COD	14	mg/l
NH ₃ -N	.1	mg/l

In the tributary itself samples showed:

COD	224,800	mg/l
NH ₃ -N	37,000	mg/l

Just above to the tributary's entry to Solomon Creek on July 7, 1978 there was only a trickle of flow. There were no manure solids but the flow was very turbid and had a strong odor of hog manure. Samples taken at this point showed:

COD	3217	mg/l
NH ₃ -N	360	mg/l

Downstream of the confluence after approximately two or three yards the stream bottom did not have sludge deposits or bacterial growth. At a point approximately fifteen yards downstream of the confluence samples showed:

COD	25	mg/l
NH ₃ -N	.8	mg/l

By the time Solomon Creek reaches a Township Road Bridge north of Hettick the stream appeared to be in good condition with clear water and a sand and gravel bottom. A water sample showed NH₃ as .6 mg/l.

The hog manure has been and will be washed out of the ditch and go to the tributary of Solomon Creek whenever there is a significant amount of rainfall. This results in greater loads of pollution in the waters of Illinois.

The stipulation provides that on July 5, 1978 all of Respondent's cropland was in crops and it had been a wet spring so he had disposed of the hog manure in the ravine. Commercial disposal companies charge \$.07 per gallon of waste to dispose of liquid hog manure. It would have cost Respondent \$1050 to dispose of 15,000 gallons of liquid manure if he had hired a commercial disposal company to dispose of it.

The Board finds that Respondent has violated Section 12(a) of the Act and Rules 203, 401 and 403 of Chapter 3. The samples from the tributary show ammonia nitrogen greatly in excess of the standard 1.5 mg/l. There was also unnatural sludge or bottom deposits, odor and unnatural color or turbidity in the tributary and for a short distance in Solomon Creek. A heavy rainfall could greatly increase the degree of the violations. In considering the factors of Section 33(c) of the Act the Board notes that the ravine and the tributary were heavily polluted with the potential for even further pollution with rainfall. Downstream in Solomon Creek the water became clear again. As stated in the stipulated facts, other economical means of disposal were available to Respondent. Certainly Respondent's hog raising operation is of economic importance and value. Clearly the value is less when water pollution results. The location of Respondent's farm is not in issue.

The Agency in its closing argument asks that the \$1050 cost of commercial disposal be considered as the amount saved by Respondent and thus the amount of penalty. However, Respondent did have other cheaper means available with planned disposal on his farm. Respondent admits dumping the waste but states that he thought that placing the waste a half a mile from the main stream would not cause harm. Respondent states that he will refrain from this method of disposal in the future. The Board finds that a penalty of \$300 will be sufficient to aid the enforcement of the Act.

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

ORDER

It is the Order of the Pollution Control Board that:

1. James Ralston is found to be in violation of Section

12(a) of the Environmental Protection Act and Rules 203, 401 and 403 of Chapter 3: Water Pollution.

2. Within thirty-five days of the date of this Order, Respondent shall, by certified check or money order payable to the State of Illinois, pay a civil penalty of \$300 which is to be sent to:

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

Mrs. Anderson abstains.

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


Christan L. Moffett, Clerk
Illinois Pollution Control Board