

ILLINOIS POLLUTION CONTROL BOARD
December 15, 1983

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY)
)
Complainant,)
)
V.) PCB 83-78
)
ILLINOIS CENTRAL GULF RAILROAD)
a Delaware corporation,)
)
Respondent.)

MR. JAMES L. MORGAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON
BEHALF OF THE COMPLAINANT.

MR. GORDON B. MANNING, REGIONAL ENVIRONMENTAL CHEMIST, APPEARED
ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by W. J. Nega):

This matter comes before the Board on the June 24, 1983
Complaint brought by the Illinois Environmental Protection Agency
(Agency).

Count I of the Complaint alleged that, on March 12, 1981;
October 7, 1981; and June 24, 1982, the Respondent caused or
allowed water pollution by discharging effluent containing approxi-
mately 500 gallons of oil into the waters of the Fulton Branch
from its Wamac Mechanical Facility (Wamac Carshop) near the City
of Wamac in Washington County, Illinois in violation of
Section 12(a) of the Illinois Environmental Protection Act (Act).

Count II alleged that, on March 12, 1981; October 7, 1981;
and June 24, 1982, the Respondent discharged effluent contain-
ing visible oil and other contaminants from the Wamac Carshop
into the waters of the Fulton Branch in violation of 35 Ill.
Adm. Code 304.106 and Section 12(a) of the Act.

Count III alleged that, on March 12, 1981; October 7, 1981;
and June 24, 1982, the Respondent discharged effluent from the
Wamac Carshop which caused the Fulton Branch to contain visible
oil in violation of 35 Ill. Adm. Code 302.201 and 302.203 and
Section 12(a) of the Act.

Count IV alleged that, on March 12, 1981; October 7, 1981;
and June 24, 1982, the Respondent caused or allowed the discharge

of approximately 500 gallons of oil into the waters of Fulton Branch at points other than Outfall 001 in violation of 35 Ill. Adm. Code 309.102 and Section 12(f) of the Act.

Count V alleged that, on March 9, 1982*, the Respondent caused or allowed the discharge of effluent containing oil and other contaminants into the Wamac Sewer System and Sewage Treatment Lagoon in violation of 35 Ill. Adm. Code 307.102 and Section 12(a) of the Act.

A hearing was held on September 29, 1983. The parties filed a Stipulation and Proposal for Settlement on October 14, 1983.

The Respondent, the Illinois Central Gulf Railroad Company (Illinois Central), is a Delaware corporation duly authorized by the Illinois Secretary of State to transact business in Illinois. Illinois Central owns and operates a shop in Marion County, Illinois at which it assembles and repairs railroad freight cars and cabooses. This facility, which is located near the City of Wamac in Washington County, Illinois is known as the Wamac Mechanical Facility and is commonly referred to as the Wamac Carshop. (Stip. 2).

The Wamac Carshop, which is less than 2 miles south of the City of Centralia, is located near the juncture of 3 counties (i.e., Clinton County, Marion County, and Washington County). Although the office and principal facilities of the Wamac Carshop are located in Marion County, portions of the Respondent's car shop extend into Clinton County. The car shop derives its name from the nearby City of Wamac, which borders the car shop on the south and west.

*The Board notes that on p. 11 of the Complaint, the date of the alleged violation is stated to be "on or about March 9, 1982". However, on p. 4 of the Stipulation, the date of the same violation is stated to be "on or about March 8, 1982". The actual date that the violation occurred (i.e., whether it was March 8, 1982 or March 9, 1982) is unclear from the record, but the Board will consider the date of March 8, 1982 to be accurate because it has been stipulated to by the parties.

It is also noted that typographical errors in the dates of other alleged violations are to be found on p. 3 and p. 9 of the Complaint, as well as a typographical error in the date of a stipulated violation on p. 3 of the Stipulation.

Additionally, although p. 7 of the Stipulation referred to Exhibit A (i.e., the Respondent's Emergency Oil Spill Response Plan), the parties inadvertently failed to submit this exhibit to the Board. At the request of the Board, Exhibit A was submitted by the Attorney General's Office on November 22, 1983.

Treated industrial wastewater and effluent from storm water runoff is discharged by Illinois Central from the Wamac Carshop into the Fulton Branch at a single point source (Outfall 001) pursuant to NPDES Permit No. IL 0000779. The Respondent's NPDES Permit, which was issued by the Agency on February 21, 1979, is effective until November 30, 1983. (Stip.2). The Fulton Branch, an intermittent stream, flows under a portion of the Wamac Mechanical Facility via an archway and then flows through the City of Wamac into Sewer Creek. Sewer Creek is a tributary of Crooked Creek (which is tributary to the Kaskaskia River).

This case involves a series of 4 discharges of oil (i.e., oil spills) from the Respondent's mechanical facility. Three of these discharges, which occurred on March 12, 1981; October 7, 1981; and June 24, 1982, went into an intermittent stream of the Fulton Branch which flows under the Wamac Carshop. The fourth improper discharge, which occurred on March 8, 1982*, flowed into the sewer system of the City of Wamac.

The parties have stipulated that, on March 12, 1981, an oil spill which occurred at the Wamac Carshop resulted in the release of approximately 500 gallons of oil into the waters of the Fulton Branch. This oil, which flowed through the City of Wamac via the Fulton Branch, traveled a distance of about 1½ miles downstream from the Wamac Carshop. (Stip. 3).

It is also agreed that, on October 7, 1981, about 500 gallons of oil were discharged in another oil spill incident at the Wamac Carshop. After being informed by a resident of the City of Wamac about a strong fuel odor emanating from the waters of the Fulton Branch, an investigation by the Agency of the Fulton Branch, both upstream and downstream of the area revealed "a strong fuel odor and oil covering on the water downstream from the Wamac Carshop, but not upstream." (Stip. 3). Subsequent Agency analysis of water samples taken from the Fulton Branch found oil levels of 880 mg/l downstream of the Wamac Carshop, while upstream levels of oil were only 3 mg/l. (Stip. 3).

On June 24, 1982, after being informed by Mr. Harold Stewart (the Chief of Police for the City of Wamac) that the waters of the Fulton Branch downstream of the Wamac Carshop contained large quantities of oil, an Agency employee took water samples to ascertain if any water quality violations had occurred. Subsequent water sample analysis by the Agency disclosed that levels of oil were 10,560 mg/l near the downstream boundary of the Wamac Carshop and oil levels were 6,855 mg/l one and one-half miles downstream. (Stip. 3). Upstream of the Wamac Carshop, oil levels were only 3 mg/l. Additionally, visual inspection by the Agency's employee indicated that the surface of the Fulton Branch was covered by oil at both downstream sampling points and showed that at least 500 gallons of oil were involved in the discharge from the Respondent's car shop. (Stip. 3).

The Agency has asserted that the discharges of oil from the Wamac Carshop on March 12, 1981; October 7, 1981; and June 24, 1982 "altered the physical, chemical, and biological properties of the waters of the Fulton Branch so as to render those waters harmful, detrimental, or injurious to public health, safety, or welfare and to domestic, commercial, industrial, agricultural, recreational uses and to livestock, wild animals, birds, fish and other aquatic life". (Stip. 4). Although Illinois Central worked to contain and clean up the oil that entered the Fulton Branch after each discharge, these discharges of effluent containing oil caused the waters of the Fulton Branch to contain visible oil for varying lengths of time after each discharge and had a detrimental effect on the environment. (Stip. 4).

Another oil spill incident occurred on March 8, 1982 when oil was discharged at the Wamac Carshop and entered the City of Wamac's sewer and wastewater treatment systems. A water sample collected at one of the City of Wamac's lift stations after the Respondent's discharge consisted of over 90% oil, while analysis of a water sample collected from the city's sewer system at a manhole downstream from the Wamac Carshop showed an oil level of 1,504 mg/l. (Stip. 4).

The Agency has contended that, because of its nature and quantity, this discharge of oil and other contaminants from the Respondent's car shop on March 8, 1982 "posed a threat of fire, explosion or injury to the sewer system, the treatment works or their operation, or a safety hazard to personnel operating the treatment works." (Stip. 4).

The proposed settlement agreement provides that the Respondent admits the violations alleged in the Complaint and agrees to: (1) cease and desist from further violations; (2) follow a specified compliance plan and schedule (to prevent any future discharges of oil or other contaminants from previous sources); (3) develop and implement an oil spill contingency plan (which is to be submitted to the Agency) to effectively deal with any future oil discharges that may occur at the plant; and (4) pay a stipulated penalty of \$9,000.00 in four quarterly installments of \$2,250.00 each into the Environmental Protection Trust Fund for the purpose of cleaning up spills and discharges of oils and hazardous wastes in Illinois. (Stip. 5-9; see: Exhibit A).

As part of its compliance plan, the Respondent has also agreed to: (1) seal the overflow lines on the pump stations which are tributary to its oil separation treatment facility; (2) submit a copy of the site plan of the Wamac Carshop to the Agency; (4) submit a list designating those employees who will handle and coordinate emergency responses to oil spills on a 24-hour basis; (5) notify the Agency's Emergency Response Unit within 2 hours of any unusual or extraordinary discharge of oil or other contaminants at the Wamac Carshop; (6) provide the Agency with details of any noncomplying discharges and corrective measures taken to rectify the situation within 5 days of any

incidents as specified in Paragraph 12, Attachment H of its NPDES Permit No. IL 0000779; and (7) take steps to determine those points at the Wamac Carshop where effluent has entered (or may enter) surface waters in the area and submit a schedule for this work and a description of any efforts already made in this regard to the Agency. (Stip. 5-9).

In regard to the previously mentioned compliance plan, the Board hopes that, by this time, the Respondent has ascertained the exact point of each prior discharge at the Wamac Carshop and has already taken all necessary steps to see that future spillage or oil leaks do not again occur at these places. Active measures must be taken in this regard to properly protect the environment.

The parties have indicated that, on March 31, 1983, another oil spill occurred at the Wamac Carshop which Illinois Central was able to contain through prompt action under its oil spill contingency plan, thereby limiting the adverse environmental impact of the spill. (Stip. 7; see: Exhibit A). While this appears to be a step in the right direction, the Board hopes that, in the future, all oil spills whatsoever can be entirely avoided by the Respondent through the exercise of greater care and precautionary measures. Because the protection and preservation of unpolluted Illinois waters is of paramount importance, the Respondent should strenuously exercise all its diligence and ingenuity to implement viable and practical measures which work to properly protect the environment and eliminate future environmental problems.

In evaluating this enforcement action and proposed settlement agreement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act and finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180.

The Board finds that the Respondent has violated 35 Ill. Adm. Code 302.201; 302.203; 304.106; 307.102; and 309.102 and Sections 12(a) and 12(f) of the Act. Accordingly, the Respondent will be ordered to: (1) cease and desist from further violations; (2) follow the specified compliance plan and schedule; and (3) pay the stipulated penalty of \$9,000.00 in 4 quarterly installments of \$2,250.00 each.

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

ORDER

It is the Order of the Illinois Pollution Control Board that:

1. The Respondent, the Illinois Central Gulf Railroad, has violated 35 Ill. Adm. Code 302.201; 302.203; 304.106; 307.102; and

309.102 and Sections 12(a) and 12(f) of the Illinois Environmental Protection Act.

2. The Respondent shall cease and desist from further violations.

3. Within 90 days of the date of the Order, the Respondent shall, by certified check or money order payable to the State of Illinois and designated for deposit into the Environmental Protection Trust Fund, pay the first quarterly installment of \$2,250.00 on the total stipulated penalty of \$9,000.00 which is to be sent to:

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


Within 180 days, 270 days, and 360 days of the date of the Order, the Respondent shall respectively pay the remaining second, third, and fourth quarterly installments of \$2,250.00 each on the total stipulated penalty of \$9,000.00, which shall be sent to the Agency in the same manner and fashion as the first installment.

Within 30 days of the date of the Order, the Respondent shall file with the Agency a waiver of any right of recovery of these monies as per its stipulated agreement with the Agency.

4. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on October 14, 1983, which is incorporated by reference as if fully set forth herein.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 15th day of December, 1983 by a vote of 7-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board