

ILLINOIS POLLUTION CONTROL BOARD
September 3, 1981

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 80-177
)
MCLEAN COUNTY SERVICE COMPANY,)
an Illinois Corporation,)
)
Respondent.)

MS. MARY JO MURRAY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.
MR. PAUL R. WELCH, COSTIGAN & WOLLRAB, AND MR. DANNY J. LEIFEL, APPEARED ON BEHALF OF THE RESPONDENT.

ORDER OF THE BOARD (by J.D. Dumelle):

On September 30, 1980 the Illinois Environmental Protection Agency (Agency) filed this enforcement action against the McLean County Service Company (McLean) alleging violations of Section 12(a) of the Illinois Environmental Protection Act (Act) and Rule 203(a) of Chapter 3: Water Pollution. Hearing was held on April 14, 1981 in Bloomington, Illinois. Members of the press and public were present, but none testified. No testimony was presented by either party. The hearing consisted solely of a summary of the Stipulation and Proposal for Settlement which was filed with the Board on June 8, 1981.

McLean is an Illinois corporation which at all pertinent times has owned and operated an agricultural sales and service facility located near Arrowsmith in McLean County, Illinois. It owns and operates storage tanks at the facility which contain nitrogen fertilizer solution consisting of 28% nitrogen by volume.

On December 31, 1979 a quantity of that solution escaped from one of the storage tanks at the facility through a hole in its valve. The escaped solution entered a storm drain which empties into a unnamed tributary to the Sangamon River, which is a water of the state. As a result an estimated 94,574 fish were killed which were valued at \$8,031.14.

If called to testify, Dr. Thomas J. Dolan would have testified that the leak was a result of a defect in the casting of the valve and that "no warning would occur until the contents spewed forth" (Stip. 3).

For this reason, McLean moved to join the valve manufacturer in this action as a party respondent. That motion was denied by order of the Board on December 4, 1980.

In evaluating this enforcement action and proposed settlement, the Board has taken into consideration all of the facts and circumstances in light of the criteria of Section 33(c) of the Act. The Board finds the stipulated agreement acceptable under Procedural Rule 331.

The Board further finds that McLean has violated Section 12(a) of the Act and Rule 203(a) by causing or allowing water pollution. However, this was an isolated incident. According to the terms of the settlement agreement McLean has agreed to pay a penalty of \$1,000, to pay the Wildlife and Fish Fund for the killed fish, and to take steps to insure that future leaks will not reach any waters of the state. This result should encourage compliance with the Act and adequately protect the environment.

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

ORDER

1. Mclean County Service Company has violated Section 12(a) of the Illinois Environmental Protection Act and Rule 203(a) of Chapter 3: Water Pollution.
2. It is hereby ordered that McLean shall comply with all terms and conditions of the Stipulation and Proposal for Settlement filed on June 8, 1981, which is incorporated by reference as if fully set forth herein.
3. Within 35 days of the date of this Order, McLean shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$1,000 to be sent to:

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

4. Within 35 days of the date of this Order, McLean shall, by certified check or money order payable to the Wildlife and Fish Fund of the State of Illinois Treasury, pay the sum of \$8,031.14 to be sent to the address in (3), above.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 7th day of September, 1981 by a vote of 4-2.

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