

ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 79-67
	)	
CHICAGO/JOLIET LIVESTOCK MARKETING	)	
CENTER, INC., A DELAWARE	)	
CORPORATION,	)	
	)	
Respondent.	)	

DONALD L. GIMBEL, ATTORNEY AT LAW AND TECHNICAL ADVISOR, APPEARED ON BEHALF OF THE COMPLAINANT.

MARTIN, CRAIG, CHESTER & SONNENSCHNEIN (JOANNA C. NEW, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by N.E.Werner):

This matter comes before the Board on the March 23, 1979 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). On July 9, 1979, the Agency filed a Motion for Leave to File an Amended Complaint and an Amended Complaint. On July 26, 1979, the Board granted this motion.

Count I of the Amended Complaint alleged that, during the month of October, 1978, the Chicago/Joliet Livestock Marketing Center, Inc. (the "Center") allowed contaminants to be discharged from its spray-irrigation system into the Frontage Road Pond of the Des Plaines Conservation Area in Will County, Illinois causing water pollution which destroyed indigenous fish and aquatic life in the pond in violation of Section 12(a) of the Illinois Environmental Protection Act ("Act").

Moreover, Count I also alleged that the Respondent allowed contaminants from its spray-irrigation system to be deposited upon the land in the vicinity of unnamed tributaries of Grant Creek, which is a tributary of the Des Plaines River, in such a place and manner as to create a water pollution hazard during the month of October, 1978, in that runoff from the land entered the Frontage Road Pond and killed fish and aquatic life in violation of Section 12(d) of the Act.

Count II alleged that, on October 10, 1978, the discharge from the Center's spray-irrigation system caused excessive levels of

ammonia nitrogen (as N) in an unnamed tributary of the Des Plaines River downstream from the discharge and in the Frontage Road Pond in violation of Rules 203 and 402 of Chapter 3: Water Pollution Control Regulations ("Chapter 3") and Section 12(a) of the Act.

Count III alleged that, from October, 1978 until July 9, 1979, the Respondent operated its holding tank, retention lagoon and spray-irrigation system in such a manner as to allow sludges, solids, liquid wastes and other contaminants to be discharged into navigable Illinois waters and failed to notify the Agency of such discharges in violation of the terms or conditions of its NPDES Permit No. IL 0037524 and Rules 410 and 901 of Chapter 3 and Section 12(f) of the Act.

Count IV alleged that, intermittently from March 23, 1979 until July 9, 1979, the Center allowed contaminants from its holding tank and retention lagoon to be deposited upon the land near the unnamed tributaries of Grant Creek, thereby creating a water pollution hazard in violation of Section 12(d) of the Act.

After two years of settlement negotiations to resolve complex technical and engineering issues, a hearing was held on August 28, 1981 at which a properly signed Stipulation and Proposal for Settlement was received into evidence.

The Respondent operates a livestock marketing and trading facility (the "facility") in Elwood, Will County, Illinois which includes "a hog house, a cattle house, livestock pens, a holding (settling) tank, and a lagoon". (Stip. 2). The loading dock areas, which "are located on the west side of the hog and cattle buildings and are depressed so that the animals walk out of the back of the trucks at floor level in the buildings", accommodate deliveries and shipments of livestock. (Stip. 2). In these special loading dock areas, "there are manholes which flow by gravity to lift stations which pump the storm water to a ditch located on the east side of the property". (Stip. 2).

To dispose of its livestock waste, the Respondent utilizes a spray-irrigation system which "consists of a high pressure pump, numerous sections of eight-inch irrigation pipe with the appropriate couplers and attachments, 600 feet of hose, a water winch, hose reel and a tractor and pipe wagon". (Stip. 2). This spray-irrigation system was developed pursuant to the Board's Opinion and Order entered on November 7, 1974 in PCB 74-49 which ratified a settlement agreement between the Agency and the Respondent. (See: Exhibits B1 and B2). The farm land used by this irrigation system contains several ditches or small streams which flow intermittently for a short distance before emptying into the fish stocking lagoon which is located in the Des Plaines Wildlife Conservation Area and owned by the Illinois Department of Conservation (i.e., the Frontage Road Pond). (Stip. 3).

On October 26, 1978, as a result of water pollution, 6,209 fish (having an established value of \$875.00) were killed in the Frontage Road Pond. The Agency's investigation of this fish kill indicated that the Respondent was responsible for this incident. (Stip. 3-4).

As part of the settlement agreement, the Agency has withdrawn, and moved to dismiss, Counts I and II of the Amended Complaint. (Stip. 5). The Board will grant the Agency's motion to dismiss these counts of the Amended Complaint. Concurrently, the Respondent has admitted the violations alleged in Counts III and IV of the Amended Complaint "for the following dates only: March 23, 1979, March 30 through April 4, 1979, and April 19-20, 1979," and has denied any violations "for all other dates". (Stip. 4-5).

The proposed settlement agreement also provides that the Respondent shall promptly: (1) construct a containment wall for the stacking of dry scraped manure; (2) notify the Agency when the treatment lagoon level rises to less than 1 foot free board (a calibrated measuring rod in the outlet manhole of the treatment lagoon has already been installed for this purpose); (3) "ensure that all pipe joints are maintained tight after relocation" by inspecting "the pipeline transport system for treated wastewater from its treatment lagoon to the spray irrigation site during each initial period of irrigation"; (4) conform "the annual application rate of wastewater" of the spray-irrigation equipment to applicable Agency criteria; (5) "pump out of the holding (settling) tank all of the waste which is now accumulated therein, or in the alternative, shall reduce the volume within the tank to a reasonable level" and place "all waste pumped out of the tank" into the lagoon; (6) deposit "no further waste...in the settling tank without prior written approval by the Agency, except in emergency situations"; (7) repair all damaged light-panels for the cattle and hog houses; (8) establish stream monitoring stations; (9) take various specified steps pertaining to the determination of whether an NPDES permit is required for the storm-water discharge from the docking area of its facility; and (10) pay a stipulated penalty of \$3,000.00 (\$875.00 of this penalty shall be paid to the Illinois Game and Fish Fund). (Stip. 4-13). Additionally, the parties have stipulated that, by agreeing to the monetary penalty, the Respondent "is not, implicitly or otherwise, admitting to the violations alleged in Counts I and II of the Amended Complaint". (Stip. 13).

Furthermore, as part of the proposed settlement agreement, the parties have requested that the Board modify paragraph 9(f) of the prior Stipulation submitted in PCB 74-79 with respect to the parameters and sampling frequencies for monitoring wells #7 and #8 (those wells adjacent to the holding lagoon). The Board will grant the request of the parties in this regard. (See: Stip. 8-10).

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. The Board finds the settlement agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act.

Accordingly, the Board finds that the Respondent, the Chicago/Joliet Livestock Marketing Center, Inc., has violated Rules 410 and 901 of Chapter 3: Water Pollution Control Regulations and Sections 12(d) and 12(f) of the Act. The Respondent will be

ordered to follow the requisite compliance program and pay the stipulated penalty of \$3,000.00 (\$875.00 of this penalty shall be paid to the Illinois Game and Fish Fund).

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 Chicago/Joliet Livestock Marketing Center, Inc., has violated Rules 410 and 901 of Chapter 3: Water Pollution Control Regulations and Sections 12(d) and 12(f) of the Illinois Environmental Protection Act.

2. The Agency's motion to dismiss Counts I and II of the Amended Complaint is hereby granted.

3. Within 45 days of the date of this Order, the Respondent shall, by certified check or money order, pay the sum of \$875.00 to the Illinois Game and Fish Fund.

4. Within 45 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay a stipulated penalty of \$2,125.00 which is to be sent to:

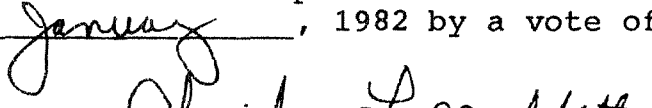
Illinois Environmental Protection Agency  
Fiscal Services Division  
2200 Churchill Road  
Springfield, Illinois 62706

5. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on August 28, 1981, which is incorporated by reference as if fully set forth herein.

6. As per the request of the parties, paragraph 9(f) of the Stipulation and Proposal for Settlement submitted in PCB 74-79 (See: Exhibit B2, page 6) is hereby modified in accord with the Stipulation and Proposal for Settlement in PCB 79-67 (See: pages 8-10 of that Stipulation), which is incorporated by reference as if fully set forth herein.

7. The Board shall retain jurisdiction for the purpose of determining any issue which results from paragraph F(c) of the Stipulation.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 7<sup>th</sup> day of January, 1982 by a vote of 4-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board