

ILLINOIS POLLUTION CONTROL BOARD  
February 17, 1982

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 77-49  
 )  
ILLINOIS CENTRAL GULF )  
RAILROAD COMPANY, )  
 )  
Respondent. )

GWENDOLYN W. KLINGLER, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

WILLIAM F. BUNN, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by I. Goodman):

This matter comes before the Board on the February 14, 1977 Complaint brought by the Illinois Environmental Protection Agency (Agency) which alleged that, on Saturday, May 29, 1976, at approximately 11:45 P.M., a train owned and operated by the Respondent, the Illinois Central Gulf Railroad Company (ICG), derailed at a railroad crossing near the center of the City of Stoy in Crawford County, Illinois. A tank car containing virgin sulfuric acid, which was owned by an initial Respondent in this case, the General American Transportation Corporation (GATX), was ruptured in the wreck and a portion of the liquid sulfuric acid was deposited on the land, creating a water pollution hazard. Some acid entered Big Creek and its tributary, Bennet Creek, causing the death of fish and other aquatic life in violation of Sections 12(a) and 12(d) of the Illinois Environmental Protection Act (Act).

On March 2, 1977, GATX filed a Motion to Dismiss the Complaint as to GATX and the Board entered an Order denying this motion on March 17, 1977. After extensive discovery, on November 29, 1979 the Board entered an Order which attempted to expedite proceedings in this case. On February 1, 1980, the Agency filed a Motion to Dismiss GATX as a respondent, and the Board entered an Order on February 21, 1980 which granted the Agency's motion. A hearing was held on October 30, 1981 and the parties filed a Stipulation and Proposal for Settlement on November 10, 1981.

On May 29, 1976, at approximately 11:45 P.M., a tank car containing 13,000 gallons of virgin sulfuric acid was punctured

during the derailment and wreck of an ICG freight train. The rupture of this car resulted in a leak of sulfuric acid "in a stream approximately the diameter of a pencil," which subsequently ran into a ditch and into nearby Big Creek, which is a tributary of the Embarras River. (Stip. 2). Sulfuric acid vapor was also released directly into the atmosphere and carried by the wind, so the local police immediately blocked all roads into the area and about 200 persons in the immediate vicinity of the City of Stoy evacuated their homes. (Stip. 2).

Local officials on the scene of the accident worked throughout the night and tried to bring the situation under control by: (1) attempting to dam up the small ditch running into Big Creek to prevent the acid from reaching the Embarras River; (2) constructing cofferdams across the small ditch and Big Creek; (3) adding 40 tons of agricultural lime to Big Creek to try to neutralize the acid and slow its progress through the creek; (4) spreading an additional 40 tons of lime at the spill area where pools of acid had formed, and (5) calling re-railing crews from Hulcher Emergency Services, Inc. (Hulcher) to clear the track and clean up the 16 derailed cars. (Stip. 3-5). Officials of local emergency services agencies, representatives of Illinois Departments of Public Health, Conservation, and the Environmental Protection Agency, ICG train crew and repairmen, and ICG officials were at the site throughout most of the duration of the incident. (Stip. 7).

Although "the car containing the sulfuric acid had stopped leaking, with about a foot of acid remaining in its bottom," around 2:00 A.M. on May 30, 1976, fumes from the creek and spill areas made the workers' clean-up operations very difficult. (Stip. 4). An Agency official, who arrived on the scene shortly before dawn, observed that a significant fish kill had occurred in the stream where the acid was trapped, even though the acid had not yet reached the Big Creek dam and had been contained in less than two miles of the ditch and stream. (Stip. 4). It was subsequently learned that a large amount of acid which had not been neutralized by the lime treatment had washed past the dam during heavy rainfalls and contributed to the fish kill. (Stip. 6). During an extensive follow-up investigation by Agency personnel and Department of Conservation investigators, it was ascertained that, because of heavy rains in the two days following the wreck, an accurate fish kill count could not be determined. (Stip. 5-7).

The parties have stipulated that "Hulcher's special chemical handling team, utilized by ICG and other carriers to handle similar spills in the past, was not requested (nor required, in ICG's judgment) by ICG." (Stip. 5). The Agency believes that "had Hulcher's chemical handling team been called to the scene at the outset, the acid may have been contained more quickly and more effectively neutralized." (Stip. 8-9). Accordingly, the Agency contends that ICG failed to "recognize swiftly enough its inability to control the situation" and asserts that the Respondent did not act in a "reasonably expeditious manner to call in personnel qualified to contain and neutralize the spilled acid and prevent

further environmental damage." (Stip. 8). On the other hand, ICG asserts that "in view of the prompt local containment and neutralization efforts," it acted promptly and diligently by calling only the Hulcher re-railing crew and by continuing "neutralization, containment and clean-up efforts at the spill site under the direction of a representative of the Association of American Railroad's Bureau of Explosives." (Stip. 8-9). Moreover, the Respondent has emphasized that it has experienced great financial loss and has spent over \$150,000.00 in connection with the derailment. (Stip. 8).

The proposed settlement agreement provides that the Respondent admits the allegations alleged in the Complaint and provides that if, in the Board's discretion, a penalty is appropriate, it shall be for a sum not to exceed \$500.00 (Stip. 10). The Board finds that the Respondent, the Illinois Central Gulf Railroad Company, has violated Sections 12(a) and 12(d) of the Act and will order ICG to pay a penalty of \$500.00.

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 Company, has violated Sections 12(a) and 12(d) of the Illinois Environmental Protection Act.
2. Within 30 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay a penalty of \$500.00 which is to be sent to:

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

3. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on November 10, 1981, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 17<sup>th</sup> day of February, 1982 by a vote of 4-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board