

ILLINOIS POLLUTION CONTROL BOARD

July 12, 1979

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-134
)
NORTHERN PETROCHEMICAL COMPANY,)
a Delaware corporation,)
)
Respondent.)

MS. LORETTA A. WEBER, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. WILLIAM E. NELSON AND MR. DONALD R. OVERHOLT, ATTORNEYS AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the May 10, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). After various preliminary pleadings were filed by both parties, the Agency filed a 16-count Amended Complaint on March 7, 1979. This Complaint alleged that, on various specified occasions, the Company discharged wastewater from its organic chemical plant near Morris, Grundy County, Illinois into Aux Sable Creek and the Illinois River which contained contaminants in excess of the standards established in its NPDES Permit for BOD₅, total suspended solids, COD, fecal coliform, oil & grease, suspended solids, minimum and maximum chlorine residual, pH, zinc and iron; and failed to comply with the reporting requirements of its NPDES Permit by neglecting to monitor its effluents for zinc (twice a week), iron (once a week), and cyanide (once a month) and by failing to promptly notify the Agency of its non-compliance with the requisite effluent standards in violation of Rules 404(b), 404(f), 405, 408(a), 408(b), 501(a) and 901 of Chapter 3: Water Pollution Control Regulations and Sections 12(a), 12(b) and 12(f) of the Illinois Environmental Protection Act ("Act"). A hearing was held on June 6, 1979. The parties filed a Stipulation and Proposal for Settlement on June 7, 1979.

The parties have stipulated that the Respondent's wastewater treatment facilities were initially in compliance with the Act, fell out of compliance, and then came back into compliance. (Stip. 23; R. 27). The parties have agreed that the Company was in substantial

compliance with its NPDES Permit for the time period before that alleged in the Complaint and has been in substantial compliance since December, 1978. (Stip. 19; See: discharge monitoring reports of Exhibits N through Z; permits in Exhibits A, F, and K; and permit application and permit denial letter of Exhibits I and J). However, solely for the purposes of the stipulation, the Respondent has admitted all violations but denies that it: (1) discharged excessive amounts of total dissolved solids and zinc during June, 1978; (2) failed to monitor its cyanide or iron levels during December, 1977; (3) failed to submit monthly non-compliance reports to the Agency (but admits that it did not submit these reports in a timely fashion). (Stip. 21).

The proposed settlement agreement provides that the Respondent shall cease and desist from further violations, construct and/or modify its wastewater treatment facilities in strict accordance with Agency Permit No. 1979-EB-4550 (see: Exhibit "AA") and Agency Permit No. 1979-EB-4438 (See: Exhibit "BB"), submit monthly progress reports until the completion of construction, and pay a stipulated penalty of \$16,000 . (Stip. 21-23). The Board, after evaluation of the proposed settlement agreement in light of Section 33(c) of the Act and Procedural Rule 331, finds the Stipulation and Proposal for Settlement to be acceptable. The Board finds that the Respondent, the Northern Petrochemical Company, has violated Rules 404(b), 404(f), 405, 408(a), 408(b), 501(a), and 901 of Chapter 3: Water Pollution Control Regulations and Sections 12(a), 12(b) and 12(f) of the Act. Accordingly, the Respondent shall cease and desist from further violations and pay the stipulated penalty of \$16,000 .

The Board has also considered the NPDES Permit issues in light of the decision by the U.S. Court of Appeals in Citizens for a Better Environment v. EPA, No. 78-1042, _____ F. 2d _____ (7th Cir. 1979), and finds that the Board has competent jurisdiction over the subject matter in the Amended Complaint pursuant to Sections 11(b), 12(f) and 13(b) of the Act and Board regulations established thereunder.

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 has violated Rules 404(b), 404(f), 405, 408(a), 408(b), 501(a), and 901 of Chapter 3: Water Pollution Control Regulations and Sections 12(a), 12(b) and 12(f) of the Act.


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

3. Within 35 days of the date of this Order, the Respondent shall pay the stipulated penalty of \$16,000 . Payment shall be by certified check or money order payable to:

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

4. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed June 7, 1979, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 12th day of July, 1979 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board