

ILLINOIS POLLUTION CONTROL BOARD  
August 23, 1979

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 76-190  
 )  
 ILLINOIS CENTRAL GULF RAILROAD CO., )  
 )  
 Respondent. )

MR. REED NEUMAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT;  
MR. TERRY N. BROWN, GUNDLOCK, LEE, EGGMAN, BOYLE AND ROESSLER, APPEARED ON BEHALF OF RESPONDENT.

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

This enforcement action was filed before the Board on August 9, 1976 by the Illinois Environmental Protection Agency (Agency) alleging violation of Section 9(a) of the Illinois Environmental Protection Act (Act) by Illinois Central Gulf Railroad (ICG), Monsanto Corporation (Monsanto), Amax Zinc Company, Inc. (Amax), and General American Transportation Company (GATX). Monsanto, Amax and GATX were later dismissed from the action on the Agency's motion. At the May 14, 1979 hearing, the Agency and ICG submitted a Proposed Stipulation and Settlement Agreement (Stipulation). No testimony was offered, nor were any witnesses called. No members of the public were present.

The Proposed Stipulation asserts that at approximately 2:15 p.m. on May 29, 1976, a train owned and operated by ICG derailed for undetermined causes approximately 200 feet west of Illinois Highway 157 and 200 feet north of Illinois Highway 163 in St. Clair County, near Centerville, Illinois. Two of the fourteen derailed cars contained chemical materials. A car consigned by Monsanto contained approximately 140,000 pounds of chlorosulfonic acid. A car consigned by Amax contained approximately 100,000 pounds of sulfuric acid in 93% concentration.

Sulfuric acid leaked from the car after damage to its safety vent assembly, caused when the car rolled on its side. When the acid flowed into a ditch between the main rail line and a parallel track, a sulfuric acid mist developed. A fire-

man treating the spill received minor burns. By 4:00 p.m. on May 29, 1976, after approximately 15 tons of acid had been released, Amax personnel had stopped the leak. Standing acid was drained into a pit and neutralized with limestone dust.

The derailed car containing chlorosulfonic acid stood upright, but acid leaked from its east end and formed a pool underneath the car. The acid decomposed as it reacted with moisture in the ambient air and it formed a dense cloud of hydrochloric acid and sulfur dioxide approximately 200 feet high and 100 feet in diameter. By 6:45 p.m., ICG workmen had set the car on its side to locate the rupture, but were prevented from doing so by dense fumes. Crewmen drained the chlorosulfonic acid into a trench and pit they had dug and appreciably reduced the fumes by applying earth as a cover. Approximately 20 tons of chlorosulfonic acid had spilled from the car.

Hulcher Emergency Service, Inc. (Hulcher), upon ICG's request, sent a chemical team to the scene by 5:00 p.m. on May 29, 1976. At 6:00 p.m., Hulcher's re-railing team was contacted when the ICG crews and Hulcher's chemical team could not stop the leak. At 10:00 p.m., the re-railing crew arrived, cleared the area, located the rupture and sealed the leak. By 10:00 a.m. on May 30, 1976, the chlorosulfonic acid had been transferred to empty cars. The damaged car which had prevented access to the acid spill was removed. The spilled acid was then covered with lime and earth. The fumes were brought under control by 1:30 p.m. on May 30, 1976, at which time nearly 500 evacuees were allowed to return. Approximately 28 citizens were treated or examined at Centerville Hospital for fume-related injuries and were released; one was admitted.

For purposes of the Proposed Settlement, the parties stipulate that ICG caused or allowed the discharge of contaminants into the atmosphere so as to cause or tend to cause air pollution in Illinois in violation of Section 9(a) of the Act. The parties, however, further stipulate that the violations by ICG were unintentional. Although ICG submits that it acted promptly and diligently to correct the problems and dangers, the Agency maintains that ICG did not swiftly enough recognize its inability to solve the acid problem and the need for re-railing crews to be called to the scene. In any event, the parties are aware that the Board in EPA v. Chicago & North Western Transportation Co., et al., 30 PCB 365, PCB 76-155 (June 8, 1978) held that operators of a potential source of pollution have a duty to anticipate and make preparations to abate possible pollution before it occurs [see Phillips Petroleum Co. v. EPA and Chicago & Northwestern Transportation Co., \_\_\_ Ill. App. 3rd \_\_\_ (2nd District, 1979)]. The parties submit that their controversy, if fully litigated, would conclude in a similar result.

The Board finds that ICG violated Section 9(a) of the Act. In the lack of evidence to the contrary, the Board presumes that ICG followed a prepared emergency plan and responded promptly in abating the pollution problem caused by the accident. Considering the significant economic loss experienced by ICG in this matter, and ICG's recognition of and attempts to resolve the problem, the Board holds that imposing a fine would not further the enforcement of the Act in this case.

The Board hereby accepts the Proposed Stipulation and Settlement Agreement as presented at the hearing of May 14, 1979, and incorporates the document by reference as if fully set forth herein.

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

ORDER

It is the Order of the Pollution Control Board that:

- 1) the Illinois Central Gulf Railroad Company violated Section 9(a) of the Environmental Protection Act.
- 2) the Proposed Stipulation and Settlement Agreement as presented during the hearing of May 14, 1979 is incorporated by reference as if fully set forth herein and is to be given full effect.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 23<sup>rd</sup> day of August, 1979 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board