

ILLINOIS POLLUTION CONTROL BOARD
May 10, 1979

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-249
)
AMERICAN NICKELOID COMPANY,)
an Illinois corporation,)
)
Respondent.)

MR. JOHN T. BERNBOM, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

D'ANCONA, PFLAUM, WYATT & RISKIND, ATTORNEYS AT LAW (MR. ROBERT W. GETTLEMAN, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the September 12, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency") which alleged that the Respondent's plating facility (the "facility") discharged effluents into the waters of the State containing the contaminants copper, nickel, and cyanide in excess of the concentrations prescribed by its National Pollutant Discharge Elimination System Permit ("NPDES Permit") in violation of Rule 901 of Chapter 3: Water Pollution Control Regulations and Sections 12(a), (b), and (f) of the Illinois Environmental Protection Act ("Act"). A hearing was held on January 9, 1979. The parties filed a Stipulation and Proposal for Settlement on January 11, 1979.

The Respondent, the American Nickeloid Company, owns and operates a plating facility located on West Main Street in the City of Peru in LaSalle County, Illinois. This facility discharges effluent into the Illinois River subject to the conditions delineated in NPDES Permit No. IL 0001724 (which was issued on September 23, 1977; modified on September 29, 1977; and expires on February 28, 1981).

It is stipulated that on various dates during October, 1977; January, 1978; February, 1978; and June, 1978, the Respondent discharged effluents containing copper, nickel and cyanide

contaminants into the Illinois River in excess of the limits set in its NPDES Permit (See: Discharge Monitoring Reports in Attachment B to the Stipulation). The proposed settlement agreement provides for a compliance plan which is designed to eliminate any further violations of the terms and conditions of the Respondent's NPDES Permit (See: Attachment C to the Stipulation).

It appears that the compliance plan detailed in the proposed settlement agreement has effectively corrected previous problems. A rust resistant pan has replaced the steel drip pan on the plating line which had rusted, leaked, and caused a spill in January, 1978. The aisle by the plating tanks has been modified so that any spillage in that aisle will drain into the batch alkaline treatment system, rather than into the plate sewer which is untreated. (R. 5-6). Additionally, new drainage gutters were installed to prevent spillage from entering untreated effluent to the lower pond; sludge in the upper pond has been removed; and a divide which directs all spillage and effluent to the batch alkaline treatment system has been moved to assure that no spillage from the plating line will escape such treatment. (See: Attachment C of the Stipulation). Moreover, the Respondent has expanded its training program for plant employees to insure proper effluent treatment and prevent incidents which can cause excursions. There have been no further excursions since the Complaint was filed and the facility appears to be in full compliance at the present time. (R. 6).

The proposed settlement agreement also provides that the Respondent pay a stipulated penalty of \$2,500 (within 28 days of the date of the Board's Order) for its prior violations. In evaluating this enforcement action and proposed settlement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Illinois Environmental Protection Act. The Board finds the stipulated agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Board finds that the Respondent, American Nickeloid Company, has violated Rule 901 of Chapter 3: Water Pollution Regulations and Sections 12(a), (b), and (f) of the Act. Accordingly, the Respondent shall pay the stipulated penalty of \$2,500 for these violations.

The Board has also considered the NPDES permit violations by the American Nickeloid Company 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 this 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 Rule 901 of Chapter 3: Water Pollution Regulations and Sections 12(a), (b), and (f) of the Act.
2. Within 28 days of the date of this Order, the Respondent shall pay the stipulated penalty of \$2,500 , payment to be made by certified check or money order to:

State of Illinois
Fiscal Services Division
Illinois Environmental Protection Agency
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 January 11, 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 10th day of May, 1979 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board