

ILLINOIS POLLUTION CONTROL BOARD
May 12, 1977

ENVIRONMENTAL PROTECTION AGENCY,)	
)	
Complainant,)	
)	
v.)	PCB 76-134
)	
)	
GROVE PLATING COMPANY, an)	
Illinois corporation,)	
)	
Respondent.)	

MS. SUSAN H. SHUMWAY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT;
MR. BERTRAM A. STONE, STONE, PROGRUND & KOREY, APPEARED ON BEHALF OF RESPONDENT.

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

This matter is before the Board on a Complaint filed May 7, 1976 by the Illinois Environmental Protection Agency (Agency) against Grove Plating Company (Grove), an Illinois corporation. The Agency, in its three Count Complaint which was amended August 24, 1976, alleges that Grove has violated Rules 701(a), 401(c), 408(a), 703(a), and 953(a) of the Illinois Pollution Control Board's Rules and Regulations, Chapter 3: Water Pollution (Rules) and Section 12(a) and 12(b) of the Environmental Protection Act (Act). The Agency alleges these violations occurred through the operation of an electroplating facility owned by Grove located in Fox River Grove, McHenry County, Illinois. The facility discharges industrial wastes containing chromium, zinc, and cyanide to the public sewer system of the Village of Fox River Grove (Village) and thence through the Village's sewage treatment plant to the Fox River. Hearing was held in this matter on October 28, 1976. No citizens testified at the hearing, and no public comment has been received by the Board.

The Grove facility is a small operation consisting of one electroplating plant containing one electroplating line for the processing of zinc and a chromate dip. The facility employs four people on a full-time basis plus some part-time work. During this 8-hour shift

the facility discharges an industrial waste effluent containing a quantity of cyanide, chromium, and zinc to the public sewer system of the Village of Fox River Grove (R.76). The Village Manager of Fox River Grove testified that to the best of his knowledge Grove Plating was the only industrial user discharging process water into the Village sewer system (R.82).

For the sake of continuity the Board shall address Count II of the Complaint first. Rule 703(a) provides:

"no waste to any public sewer system shall contain cyanide in excess of 0.025 mg/l anytime except as permitted by Rule 703(b)."

Rule 703(b) does not apply herein. Complainant's Exhibits 4 through 38 contain the results of Agency tests of Grove's effluent including quantitative results for cyanide. There was considerable testimony and cross-examination concerning the cyanide results, but the Board finds no reason to question the accuracy of the results presented. The analysis results indicate Grove was in violation of Rule 703(a). Grove alleges that it did not willfully violate Rule 703(a) but that the Agency failed in its duty to inform Grove that it could not discharge more than 0.025 mg/l of cyanide to the Village sewer. The Board finds that Grove's argument goes to mitigation of the alleged violation and finds that Grove has violated Rule 703(a) of the Regulations as alleged in the Complaint and, therefore, violated Section 12(a) of the Act.

Count I of the Complaint alleges that Grove violated Rule 701(a) of the Regulations in that its discharge to the Village treatment works caused the effluent from the treatment works to violate applicable effluent standards. Rule 203(f) sets the effluent standard for cyanide for the Village's sanitary treatment plant at 0.025 mg/l. The weighted average of the results of twenty-five of the Agency's cyanide determinations (excluding the three lowest and the six highest results) is 1.13 mg/l. Consideration of the distribution of the values found supports this weighted average. Using a discharge average of 12,500 gallons per day from Grove and a discharge of 350,000-600,000 gallons per day from the Fox River Grove treatment plant, it appears that Grove contributes 0.024 mg/l on wet days and 0.040 mg/l of cyanide on dry days (R.210). These figures conservatively assume that Grove's entire discharge is distributed evenly over the 24-hour discharge of the sanitary treatment plant, while in reality Grove discharges only 8 hours per day. Agency determinations of the discharge of the Fox River Grove plant in Exhibits 39 through 41 indicate that the sewage treatment plant is indeed in violation of the 0.025 limit for cyanide. Grove's allegation that the Agency results at the treatment plant out-fall were not chronologically sequenced with the examples taken at Grove's discharge is

spurious since Grove's discharge is continuous during the 8-hour shift (R.125). Considering all the testimony and the Exhibits presented, including the previously mentioned fact that Grove is the only industrial concern discharging process water to the sanitary treatment plant, the Board finds that Grove has violated Rule 701(a) of the Regulations and therefore Section 12(a) of the Act, as alleged in Count I of the Complaint.

Count III of the Complaint alleges that Grove is in violation of Rule 953(a) of the Regulations and 9(b) of the Act in that Grove is operating a pre-treatment works without a permit issued by the Agency. Grove's permit application indicates a start-up date of July 10, 1976 for the cyanide destructor equipment (Complainant's Exhibit 44). Construction was completed in June, 1976, and Grove has been operating the equipment on an experimental basis up to the time of the hearing in October, 1976. At the time of the hearing Grove had not yet received an Agency operating permit. It appears to the Board that Grove is in at least technical violation of Rule 953(a) of the Regulations.

Having found Grove in violation of the Regulations, the Board must consider the imposition of a penalty for these violations. In doing so, the Board must address the factors outlined in Section 33(c) of the Act. There is some evidence that the Fox River Grove treatment works suffered upsets in its biological systems due to Grove's cyanide bearing effluent. Some of this evidence is contained in an offer of proof made after the Hearing Officer rejected the expert status of a witness. The Board will consider the offer of proof for whatever evidentiary weight it may have. The social and economic value of the pollution source was not an issue in this case nor was the suitability of the pollution source to the area in which it is located. It is well established that controlling the cyanide in Grove's effluent is technically practicable and economically reasonable, especially considering that Grove has already installed a cyanide destructor. The Board finds that a fine is appropriate in that it would aid in the enforcement of the Act. Considering all the evidence herein, including the apparent financial condition of Grove and its recent efforts to come into compliance with the Board's Regulations, the Board will assess a fine of \$250.00 for violations alleged in Counts I and II. The allegations of violation of Rules 401(c) and 408(a) are inapplicable and are hereby dismissed.

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

ORDER

It is the Order of the Pollution Control Board that:

1. Grove Plating Company has violated Rules 701(a) and 703(a) of the Illinois Pollution Control Board's Rules and Regulations: Chapter 3, Water Pollution and Section 12(a) of the Environmental Protection Act in that it discharged cyanide into the public sewer system of the Village of Fox River Grove in excess of the limits set by the Regulations, which caused the sanitary treatment plant of Fox River Grove in turn to discharge cyanide in excess of limits set by the Regulations.

2. Grove Plating Company shall within 35 days of the date of this Order pay a penalty of \$250.00 for the violations found in (1) above. Said penalty payment by certified check or money order shall be made payable to the:

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


3. Grove Plating Company is found to be in violation of Rule 953(a) of the Regulations and 12(b) of the Environmental Protection Act in that it does not possess an operating permit for its pre-treatment works located at the Fox River Grove facility.

4. Grove Plating shall cease and desist from the violations found in (1) above.

5. Grove Plating shall obtain the necessary operating permits for its cyanide destructor from the Illinois Environmental Protection Agency within 120 days of the date of this Order.

6. The Complaint with respect to violation of Rules 401(c) and 408(a) is dismissed as inapplicable.

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 May, 1977 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board