

ILLINOIS POLLUTION CONTROL BOARD  
March 6, 1975

ILLINOIS CENTRAL GULF R.R. COMPANY )  
 )  
Petitioner )  
 )  
v. ) PCB 73-546  
 )  
ENVIRONMENTAL PROTECTION AGENCY )  
 )  
Respondent )

OPINION AND ORDER of the Board (by Mr. Zeitlin)

The Petition for Variance in this matter was filed with the Board on December 20, 1973. Petitioner Illinois Central Railroad sought a variance from Rule 404(a) of the Water Pollution Regulations to allow discharges of lubricating oil, diesel fuel and other unnamed contaminants to a drainage ditch adjacent to Petitioner's railroad yards. The Environmental Protection Agency (Agency) interpreted the petition as requesting relief from Rules 404(f), 403 and 408 rather than from Rule 404(a) and the Petitioner concurred with this interpretation in an amended Petition filed on March 27, 1974.

Petitioner's East St. Louis facility provides maintenance and repairs for freight cars and locomotives. In the course of maintenance and refueling, Petitioner alleged unavoidable spills sometimes occur. Stormwater drainage carries contaminants deposited on Petitioner's land to two drainage ditches tributary to the Mississippi River. Petitioner proposed to install a sewer to collect and carry the stormwater runoff to a two cell lagoon system where containment and treatment will occur prior to discharge.

The Pollution Control Board (Board) entered an Order on January 3, 1974, requiring Petitioner to submit the cost of its proposed wastewater control facility. Petitioner disclosed in a letter received by the Agency on January 21, 1974, that its proposed system would cost \$459,500. The Agency submitted its Recommendation in this cause on January 25, 1974. It recommended that the subject Petition be denied until such time as Petitioner: (a) submit contaminant discharge and water quality data showing no substantial adverse environmental impact, (b) submit a program for removing existing and future ground accumulations of contaminant, (c) explain why unavoidable spills occur at its facility, and (d) describe what measures are being taken to improve housekeeping procedures. Petitioner filed an amended Petition in response to these recommendations on March 27, 1974. On April 18, 1974, the Agency filed an objection to the Petition and requested that a hearing be scheduled. The Agency submitted an Amended

Recommendation on May 24, 1974. It recommended that the Petition be granted until November 15, 1974, subject to several conditions. These conditions included the submittal of monthly progress reports to the Agency; a program for removing accumulated oil deposits; daily inspection of oil absorbant materials and baffles in the ditches; a program of quality control for the use of fuel oil, journal oil, and lubricating oil; and results of samples taken immediately after an appreciable rainfall.

A public hearing was held on June 13, 1974. At this hearing the parties entered into various stipulations, and agreed that Rule 203(a) as it applies to oil would also be included in Petitioner's variance request. The Agency stipulated as to the authenticity of facts contained in the Petition and the Petitioner stipulated to an agreement concerning the recommendation made by the Agency. Two other hearings were held on November 27, 1974 and on January 6, 1975. At these hearings testimony was given by Petitioner's witnesses as to why the proposed treatment facility had not been placed in operation on November 15, 1974. Petitioner cited a 48 day construction trades union strike and the destruction of the manufacturer's warehouse that was to supply the pump station, as reasons for the delay.

Petitioner also cited interim measures that had been taken to avoid spills. These included collection pans, automatic shutoff valves, fuel modification kits, improved maintenance of the fueling nozzles and education of the employees as to the proper procedures for fueling locomotives. Testimony received on January 6, 1975 indicated that the pump station was to be placed in operation on January 8, 1975.

The Agency's final amended recommendation was filed with the Board on February 5, 1975. It indicated that all of Petitioner's treatment system appeared to be complete on January 8, 1975 except for vegetating the berms of the lagoons. The Agency therefore recommended that the present petition for variance be granted, ending on January 10, 1975.


It is clear that Petitioner throughout these proceedings has sustained a good faith effort in the attempt to make this treatment facility operational. The short delay can justifiably be attributed to the labor strike and to the destruction of the pump manufacturer's warehouse. Furthermore, the record indicates that the Petitioner, upon notification of non-delivery of the pump in November, 1974, acted promptly in an attempt to locate another source. Based on these facts and the Agency's recommendations, the Board concludes that a grant of this retroactive variance is reasonable.

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

ORDER

It is the Order of the Pollution Control Board that Petitioner, Illinois Central Gulf Railroad Company be granted a variance from the requirements of Rules 408(a) and 203(a) (as they relate to oil standards) and Rules 404(f) and 403 of the Water Pollution Regulations for the period December 20, 1973 to January 10, 1975.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion & Order were adopted on the 6<sup>th</sup> day of March, 1975 by a vote of 3 to 0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board