

ILLINOIS POLLUTION CONTROL BOARD

January 3, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
 Complainant,)
)
 v.) PCB 74-264
)
ALCO SPRING INDUSTRIES, INC.,)
a Delaware Corporation,)
 Respondent.)

Mr. Marvin N. Benn, attorney for Complainant.
Mr. James R. Levin, attorney for Respondent.

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

On July 10, 1974, the Environmental Protection Agency (Agency) filed a formal Complaint against the Respondent charging a violation of Rule 903(a) of the Water Pollution Regulations (Chapter Three) in that from January 1, 1973, until the filing of the Complaint, Respondent operated its treatment works and wastewater sources without first having obtained permits from the Agency.

Alco Spring Industries, Inc. (Alco) operates a spring manufacturing company at 23rd and Euclid Avenue, Chicago Heights, Cook County, Illinois. Alco cools oil by the use of water as one step in its manufacturing process. The resulting industrial wastewater is discharged into Thorn Creek. The system was designed to avoid the water's being contaminated by the oil. Additional precautions included installation, before 1940, of two oil separators (weirs). In 1970 and August, 1973 Alco installed air-cooled heat exchangers in place of most of the water-cooled heat exchangers. Alco had never received a permit for the operation of its wastewater treatment facility.

A hearing took place on November 8, 1974, in Chicago, Illinois. A Stipulation of Facts and Agreed Settlement was read into the record. The Factual Background revealed that Alco had applied for an operating permit on February 4, 1974. On March 28 the Agency denied this application. On April 2, 1974, the Agency requested Alco to submit plans to further reduce the possibility of oil discharges. Shortly afterwards, Alco discussed with the United States Environmental Protection Agency (USEPA) a plan it believed would be satisfactory to the Agency. The USEPA representative suggested that Alco should delay submission of its proposed plan to the Agency until after Alco's officers approved it. Alco believed that this representative was employed by the Agency, not USEPA, and relied on its conversations with the USEPA in not sub-

mitting its proposed plan. Alco officers approved the plan on July 24, 1974. This plan required the removal of water-cooled exchangers and the spending of \$160,000 by the end of September, 1974. Alco had spent \$145,000 prior to September, 1974. Alco's plan is conceptually acceptable to the Agency.

Alco admitted in the Factual Stipulation Regarding Alleged Violations that it had failed to resubmit the operating permit application by July 10, 1974, and had never received an operating permit. The parties agree that Alco has not violated any statute or regulation prohibiting substantive pollution.

In the Agreed Settlement, the parties stated that:

"The EPA (Agency) and Alco have agreed to the following in full settlement of all EPA enforcement proceedings against Alco for alleged violations occurring to the date hereof.

"A. Alco has accomplished the following:

1. Fill the storm ditch and cover any oil spills on the ground around the oil separator.
2. Clean the oil separator.
3. Paint the inside of the oil separator.

"B. Alco will accomplish the following by December 31, 1974, unless prevented from doing so by delays not attributable to Alco:

Eliminate all water discharge from heat exchangers into Thorn Creek, including the completion of the transition from water-cooled to air-cooled heat exchangers.

"C. Alco will pay to the State of Illinois a fine of One Thousand Dollars (\$1,000) in full settlement of all EPA enforcement proceedings against Alco for alleged violations occurring prior to the date hereof. Payment of that penalty shall be upon the immediate receipt of the Order, subsequent to the decision of the Pollution Control Board. Respondent shall pay the penalty of \$1,000 to the State of Illinois to:

Fiscal Services Section
Environmental Protection Agency
Springfield, Illinois 62706

"D. Alco will not be chargeable with violation of Rule 903(c)(1), Chapter 3, of the Illinois Pollution Control Board Rules and Regulations during the period of time the Agency is reviewing Alco's permit application, provided that Alco shall obtain the required permit, if needed, by no later than December 31, 1974. Alco shall not be responsible for any delay in obtaining said permit caused by delays not attributable to Alco."

We accept the Stipulation and Proposal For Settlement entered into between the parties. We construe the reference to 903(c)(1) in paragraph 3 of the Factual Background as amending the July 10 Complaint to charge a violation of Rule 903(c)(1), not 903(a). We find that the Respondent violated Rule 903(c)(1) of Chapter 3 from July 1, 1973, through July 10, 1974. The penalty and program of environmental protection are satisfactory under the circumstances of the case.

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

ORDER

IT IS THE ORDER of the Pollution Control Board that:

1. Alco shall carry out all the terms of the Agreed Settlement by the dates and in the manner as stated above. Payment of the \$1,000 penalty shall be made within fifteen (15) days of the receipt of this Order.

2. Alco shall cease and desist from violating Rule 903 (c)(1) of Chapter 3 by December 31, 1974.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 3RD day of January, 1974, by a vote of 5 to 0.


Christan L. Moffett