

ILLINOIS POLLUTION CONTROL BOARD  
February 14, 1975

CITIZENS FOR A BETTER ENVIRONMENT, )  
 )  
 v. ) PCB 74-201  
 )  
 STEPAN CHEMICAL, Respondent; )  
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 STEPAN CHEMICAL, Petitioner, )  
 )  
 v. ) PCB 74-270  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, Respondent; )  
 )  
 STEPAN CHEMICAL, Petitioner, )  
 )  
 v. ) PCB 74-317  
 )  
 ENVIRONMENTAL PROTECTION AGENCY, Respondent. )

DISSENTING OPINION (by Dr. Odell)

My dissent in this consolidated proceeding is from the Order which the Pollution Control Board (Board) passed on February 14, 1975. My dissent is based primarily on the low penalty that was established by our February 14, 1975, Order even though Stepan showed distinctly less than good faith efforts to control water pollution in accordance with previous agreements approved by the Board.

This consolidated proceeding involves an enforcement case (PCB 74-201), an appeal from permit denial (PCB 74-270), and a Petition for Variance (PCB 74-317). Stepan owns and operates a chemical manufacturing facility, known as the Millsdale Plant, which is located in Will County near the Des Plaines River. Effluent from the Millsdale Plant is discharged to Cedar Creek a short distance before it flows into the Des Plaines River.

On January 24, 1974, the Board issued its Opinion and Order in two prior consolidated cases involving Stepan, PCB 72-489 and PCB 73-184, in which Stepan was to achieve compliance with applicable Water Pollution Regulations.

The following quotations from the February 15, 1975, majority Board Opinion in the current consolidated cases (PCB 74-201, -270, and -317) indicate less than good faith efforts by Stepan to control water pollution from its Millsdale Plant:

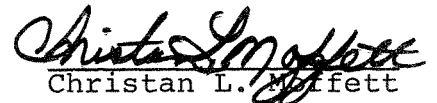
Page 9 - "In the prior consolidated cases (PCB 72-489 and PCB 73-184) Stepan told the Board that it planned to install a pipeline from the waste treatment plant to the Des Plaines River by July 15, 1974. The Board approved of this project because the Des Plaines has a greater assimilative capacity and the plan would provide relief for Cedar Creek. However, when Stepan told the Agency on January 16, 1974 (Stepan Exhibit #7) that its construction permit application was being prepared, it was revealed for the first time that Stepan did not intend to install pipeline continuously from the plant to the Des Plaines River."

Page 10 - "Andrae's testimony on this point (contact with adjacent railroads) raised some doubt about Stepan's good faith throughout its dealings with the Board and the Agency."

Page 15 - "It appears to us that Stepan, at the time it agreed to divert its effluent to the Des Plaines River, knew full well that it could not meet its agreed deadline. Therefore, we are reluctant to praise Stepan for diligence and good faith."

The record clearly shows that Stepan has not shown good faith in dealing with its water pollution problems, even though the Board and the Illinois Environmental Protection Agency (Agency) have consistently cooperated with Stepan in efforts to resolve its problems. In view of these circumstances, I believe that the penalty for the continuing violations in this consolidated proceeding should have been \$25,000, and certainly not less than the \$20,000 which was suggested by the Complainant, Citizens For A Better Environment.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, do hereby certify that the above Dissenting Opinion was filed this 21<sup>st</sup> day of February, 1975.

  
Christan L. Moffett