

ILLINOIS POLLUTION CONTROL BOARD

September 12, 1974

CITIZENS FOR A BETTER ENVIRONMENT,)
An Illinois Not-for-Profit Corp.,)
Complainant,)
vs.) PCB 74-19
INTERNATIONAL HARVESTER COMPANY,)
Hough Division,)
Respondent.)

Mr. Dennis L. Adamczyk appeared for Complainant
Mr. William A. Domm, attorney for Respondent

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

Citizens for a Better Environment (CBE) filed a Complaint against International Harvester Company (Harvester) on January 14, 1974. Harvester owns and operates a facility (the Hough Division) in Libertyville, Lake County, Illinois. The plant is located adjacent to Rockland Road and the Des Plaines River. CBE alleged that:

1. Respondent discharged wastewater into the Des Plaines River from December 31, 1972, through January 14, 1973, without a permit in violation of Rule 903(a) of the Water Pollution Regulations of Illinois (Chapter Three).
2. Respondent did not file operating reports pertaining to effluent discharges from December 31, 1972, through January 14, 1973, in violation of Rule 501 (a) of Chapter Three.
3. Respondent violated Section 12(a) of the Environmental Protection Act (Act) and Rule 403 of Chapter Three on the dates of and in the manner set out below:
 - a. Iron from the facility was discharged into the Des Plaines River on October 18, 1973; and
 - b. Oil from the facility was discharged into the Des Plaines River on October 18, 1973; and
 - c. Chromium (hexavalent) from the facility was discharged into the Des Plaines River on October 18, 1973; and

- d. Chromium from the facility was discharged into the Des Plaines River on November 8, 1973.

On February 13, 1974, Respondent filed a motion opposing the assignment of a hearing officer, because it believed that the Pollution Control Board (Board) had not yet ruled on whether the Complaint was frivolous or duplicitous under Procedural Rule 306. In its February 21 Interim Order, the Board stated that it had already ruled that the Complaint was neither frivolous nor duplicitous. However, the Board gave Respondent 30 additional prehearing days to prepare its case.

A hearing took place in Waukegan, Illinois on April 25, 1974. The parties entered a Stipulation into the record which the Board received on May 13. Paragraph 10 of the Stipulation stated that a \$1,000 penalty was to be paid to the State of Illinois for water pollution control research. In our Interim Order of June 20, we remanded the case to the parties for further proceedings. We indicated that the Board lacked the power to authorize payments for water pollution control research. We requested the parties to amend the Stipulation to provide that any agreed upon penalty be payable to the general revenue of the State of Illinois. The parties submitted an Amendment To The Stipulation on July 15, 1974, indicating that Respondent would make "a donation to the College of Lake County in Grayslake, Illinois, in the amount of \$1,000."

The other portions of the original Stipulation remained unchanged. In pertinent part, the May 13 Stipulation stated that:

- "1. International Harvester Company admits that it had not obtained, subsequent to June 30, 1973, a permit for its discharge of non-contact cooling water pursuant to the Illinois Pollution Control Regulations.
- "2. International Harvester Company admits that on October 18, 1973, it discharged iron, oil and hexavalent chromium into the Des Plaines River, and that on November 8, 1973, it discharged chromium into the Des Plaines River. . . . International Harvester admits that the discharges listed in this paragraph 2 exceeded Section 12(a) of the Act and Section 403 of the Water Pollution Control Regulations."

As part of its compliance program included in the Stipulation, Harvester agreed to locate industrial wastes flowing into the Des Plaines River and divert such wastes to its new treatment plant, continue sampling surveillance, cease and desist from all violations, send final sampling reports to the Board, and advise the Environmental Protection Agency (EPA) of any accidental spills.

Finally, in the Amendment To The Stipulation received on

July 15, 1974, Respondent agreed to pay \$1,000. We construe this donation to be a payment of a penalty:

"10. International Harvester Company will make a donation to the College of Lake County in Grayslake, Illinois, in the amount of \$1,000.00. This sum will be payable within 30 days after the final approval is received from the Illinois Pollution Control Board of this settlement."

Respondent presented two witnesses at the hearing who testified to the mitigating circumstances surrounding the illegal discharges. Prior to 1970, Harvester had two types of sewers: one type consisted of five storm sewers leading into the Des Plaines River, and the other consisted of the plant's sanitary sewer system which delivered wastes into the village sewers (R-19, 20). Beginning in 1970 or 1971, efforts were undertaken to improve the disposal methods for the industrial wastes (R-20). A treatment facility was built at a cost in excess of \$400,000 (R-33, 34). All industrial wastes were diverted to this facility before discharging into the village sewer system. Because the sewer system's blueprints were not complete when Respondent purchased the used facility in 1952 (R-21), certain industrial wastes from the paint booths, parts washers, steam cleaners (R-22), and cooling towers continued to be discharged into the Des Plaines River. Harvester thought they had diverted all of the industrial wastes from the storm sewers (R-36) but, in fact, this has not been fully achieved.

No citizen witnesses came forward to testify at the hearing (R-43).

On the basis of the admissions of Respondent, we find that Section 12(a) of the Act and Rules 903(a) and 403 of Chapter Three have been violated. We find no violation of Rule 501(a), because no evidence was submitted on this point. Violations of Section 12(a) occurred on October 18 and November 8, 1973. Rule 903(a) is a continuing violation since June 30, 1973, in that Respondent has no EPA permit to operate its treatment works. Rule 403 was violated in the same manner and on the same dates as Section 12(a) of the Act, namely, October 18 and November 8, 1973.

We accept the Stipulation entered into between the parties in this case. Respondent has shown good faith in his efforts to solve his pollution problems. Acceptance of the Stipulation will result in immediate pollution abatement efforts. The environmental consequences do not appear serious. The parties have dealt at arms-length in reaching a solution to the problem. It is also relevant that no citizens raised any objection to this Stipulation during the hearing.

We believe that a \$1,000.00 penalty is a reasonable one. However, the payment of a penalty to an entity such as the College of Lake County does not conform with the intent of the Act. Since the Stipulation was not made conditional upon complete and unaltered acceptance by the Board, and since the parties failed to carry out our June 20 directive, we unilaterally modify the Stipulation so

that the penalty is payable to the general revenue of the State of Illinois. 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. International Harvester Company shall sample various drains, manholes, and storm sewers as related to its industrial wastes from its industrial processes at its Libertyville facility in an effort to trace and identify the source or sources of any industrial wastes which may be entering into the storm sewer system. Initial sampling must be begun within 30 days after the adoption of this Order.

2. International Harvester Company shall establish and implement a plan to connect all such industrial wastes that it discovers, pursuant to Order 1 above, to its new central water treatment plant. International Harvester Company must furnish a copy of the plan to Citizens For A Better Environment, attention Mr. Adamczyk. If no industrial wastes are discovered, pursuant to Order 1 above, International Harvester Company will furnish a letter to the Citizens For A Better Environment, attention Mr. Adamczyk, stating that fact.

3. International Harvester Company shall carry out an on-going sampling program to monitor the effects of any changes made pursuant to Order 2 above.

4. International Harvester Company shall furnish to the Illinois Environmental Protection Agency a copy of the final sampling report which shows no industrial wastes going into the storm sewers. If a final sampling report is unavailable within 6 months of the adoption of this Order, International Harvester Company shall furnish a progress report by that date and thereafter every 6 months until the final sampling report is available showing no industrial waste discharge into the storm sewer. Copies of these reports shall also be furnished by Respondent to the Citizens For A Better Environment, attention Mr. Adamczyk.

5. International Harvester Company shall apply for any permits that are required pursuant to the Illinois Pollution Control Board regulations.

6. International Harvester Company shall cease and desist from violating Section 12(a) of the Act and Rules 403 and 903(a) of Chapter Three.

7. International Harvester Company shall advise the Illinois Environmental Protection Agency of any accidental spills of industrial wastes into its storm sewers until December 31, 1975.

8. International Harvester Company shall pay a penalty of

\$1,000.00 for the violations of the Act and regulations found in this Opinion. Payment shall be by certified check or money order made payable to the State of Illinois, Fiscal Services Division, Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706. Payment shall be made within 30 days of the adoption of this Order.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 12th day of September, 1974, by a vote of 5 to 0.


Christan L. Moffett