

ILLINOIS POLLUTION CONTROL BOARD
January 3, 1974

ENVIRONMENTAL PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 72-94
)
DART INDUSTRIES, INC., a)
Delaware corporation d/b/a)
REXENE POLYMERS CO.,)
)
Respondent.)

Kenneth A. Manaster and Nicholas G. Dozoryst II, Assistant Attorneys
General for the EPA
Arthur T. Lennon, Attorney for Respondent

OPINION AND ORDER OF THE BOARD (by Mr. Henss)

The Environmental Protection Agency filed a Complaint alleging that Respondent on certain dates in 1971 discharged effluent from its industrial waste treatment facility into a ditch tributary to the Des Plaines River and that the effluent contained suspended solids and was of such color and turbidity as to violate Sections 12(a) and 12(c) of the Environmental Protection Act, Rule 1.08 Sections 11(a) and 10(b)(3) of the Illinois Sanitary Water Board Rules and Regulations (SWB-8), and exceeded volume and strength specified in permits which had been issued by the Sanitary Water Board in 1965 and 1968. The Respondent denied the various allegations of the Complaint and filed an affirmative defense claiming that compliance with the Act and the Rules and Regulations would impose an arbitrary and unreasonable hardship upon Respondent; that various provisions of the Environmental Protection Act are unconstitutional; that the Board has no authority to impose monetary penalties. Respondent's request for relief was denied by Board Order of March 8, 1973.

When the matter was called for public hearing the parties appeared and submitted their Stipulation for Settlement in lieu of testimony. Respondent operates a manufacturing plant which produces a polystyrene plastic and also operates an industrial waste treatment plant which serves the manufacturing facility. Both of the plants are located in Will County at the intersection of Interstate Highway 55 and Joliet Arsenal Road. It was stipulated that the effluent from Respondent's facilities has in all respects complied substantially with the provisions of the Environmental Protection Act, the Permit

and the Illinois Sanitary Water Board Rules and Regulations since March 1972. However, on eight dates prior to March 1972 the effluent did contain suspended solids in excess of the quantities permitted by SWB-8. The suspended solids consisted of acrylonitrile-butadiene-styrene (commonly known as ABS), a polystyrene plastic of nontoxic variety, which suspended solids produced the color and turbidity complained of in the Complaint.

On May 18, 1972 and again on April 19, 1973 the EPA sampled Respondent's effluent and found it to be in compliance with SWB-8 and the Environmental Protection Act. The reduction of suspended solids resulted from modification of process and the recycling of the ABS water. The installation and modification was completed in 1972 pursuant to permit issued by the Environmental Protection Agency.

From the Stipulation we conclude that Respondent was guilty of the violations charged in the Complaint but has now brought its operation into compliance with the Statute, the Regulations and the various conditions of permits which have been issued to it. Respondent agrees to pay a penalty in the amount of \$3,000 upon our approval of the settlement stipulation. Because of Respondent's efforts to bring its effluent into compliance we believe the \$3,000 penalty is acceptable. Our approval of this settlement shall be a final adjudication regarding any claims that the effluent from Respondent's waste treatment plant was in violation of Statute, Regulation or Permit prior to March 31, 1972. Respondent has agreed that upon our approval of the settlement it will forthwith present to the Treasurer of the State of Illinois the sum of \$3,000 and we construe that provision along with other provisions of the settlement document to constitute a waiver of the various affirmative defenses which had earlier been raised by Respondent.

ORDER

It is ordered that Respondent shall pay to the State of Illinois by January 18, 1974 the sum of \$3,000 as a penalty for the violations found in this proceeding. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois EPA, 2200 Churchill Road, Springfield, Illinois 62706.

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

Christan L. Moffett