

ILLINOIS POLLUTION CONTROL BOARD  
April 26, 1979

ENVIRONMENTAL PROTECTION AGENCY, )  
)  
Complainant, )  
)  
v. ) PCB 78-262  
)  
ARCHIBALD ENOCH PRICE--THE CARE OF )  
TREES, INC., an Illinois )  
corporation, )  
)  
Respondent. )

MR. WILLIAM BARZANO, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. MARSHALL E. LOBIN, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a complaint filed on October 10, 1978 by the Environmental Protection Agency (Agency). The complaint alleges the Respondent caused or allowed a violation of Section 12(a) of the Environmental Protection Act (Act) and Section 12(d) of the Act on or about April 22, 1978. A hearing was held on February 20, 1979 at which time a stipulated agreement was presented for Board approval.

The stipulated agreement provides that Archibald Enoch Price--The Care of Trees, Inc. is a corporation which specializes in spraying trees with pesticides. It is a licensed pesticide applicator by the Illinois Department of Agriculture. The pesticides Respondent is allowed to apply are methoxychlor and malathion. Methoxychlor is a hazardous substance as defined by USEPA (40 C. F. R. 10484, Table 119.5, March 13, 1979). It has a toxicity range of  $LC_{50} < 0.1$  mg/l. "LC<sub>50</sub>" is defined as that concentration of material which is lethal to one-half of the test population of aquatic animals upon continuous exposure for ninety-six hours or less.

On April 22, 1978 the Respondent applied a methoxychlor spray in a dilution ratio of eight gallons of "Amoco Methoxychlor Spray" to ninety-two gallons of water to a number of elm trees in the immediate vicinity of Forest Lake. While the spray was being applied a sudden change in wind direction caused some of the spray to settle upon Forest Lake.

Forest Lake is located within Maine Park in Park Ridge, Cook County, Illinois and is owned by the Park Ridge Park District. It consists of two small lakes with a combined area of approximately two acres. The lakes are interconnected by a fifteen inch diameter pipe and are used for a variety of recreational uses. By April 25, 1978, a large number of the fish and aquatic life of the east lake of Forest Lake were found dead; the fish and aquatic life of the west lake of Forest Lake were showing signs of stress. Laboratory analysis of dead fish taken from the lake on May 5, 1978 revealed the same to have a residue level of methoxychlor anywhere from 23.06 ppm to 35.67 ppm. A dosage of 0.020 to 0.030 ppm of methoxychlor will kill fifty percent of the small bluegill or rainbow trout population after twenty-four to forty-eight hours of exposure. Laboratory analysis of the sediment of Forest Lake revealed the same to have a sufficient methoxychlor residue to adversely affect bottom feeding fish and other organisms.

As a result of further studies, it has been determined that all fish and aquatic life contained in the Forest Lake must be destroyed and the lake entirely restocked. Pursuant to the settlement agreement Respondent has paid \$621.46 to the Park Ridge Park District to cover the following expenses:

Cost of Park Ridge Park District clean up of fish and aquatic life destroyed.	\$158.96
Cost to Park Ridge Park District of extermination of remaining fish and aquatic life due to methoxychlor contamination.	\$362.50
Cost of Park Ridge Park District clean up of remaining fish and aquatic life to be exterminated due to methoxychlor contamination.	<u>\$100.00</u>
TOTAL	\$621.46

The terms of the settlement provide that Respondent admits violations of Section 12(a) and Section 12(d) of the Act. Respondent agrees to pay a civil penalty in the amount of \$764.54, calculated as follows:

Fish and aquatic life destroyed:		
12,589 Bluntnose minnow	\$0.03 each	\$629.45
988 Carp and goldfish	.06 each	59.28
210 Green sunfish	.31 each	71.61
70 Black bullhead	.06 each	<u>4.20</u>
TOTAL		\$764.54

The Board finds the stipulated agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Board finds Respondent in violation of Section 12(a) and 12(d) of the Act. A penalty of \$764.54 will be assessed.


This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

It is the Order of the Pollution Control Board that:

1. Respondent is found to be in violation of Sections 12(a) and 12(d) of the Environmental Protection Act.
2. Respondent shall comply with the terms of the stipulated agreement, which is incorporated herein by reference.
3. Respondent shall pay a penalty of \$764.54, payable by certified check or money order to the Game and Fish Fund of the Illinois State Treasury.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 26<sup>th</sup> day of April, 1979, by a vote of 4-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board