

ILLINOIS POLLUTION CONTROL BOARD  
August 9, 1979

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 78-235  
 )  
ALUMAX EXTRUSIONS, INC., a Delaware )  
corporation qualified to do business )  
in the State of Illinois, )  
 )  
Respondent. )

MR. JOHN T. BERNBOM, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

CHAPMAN & CUTLER, ATTORNEYS AT LAW (MR. DANIEL J. KUCERA, OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by Mr. Werner):

This matter comes before the Board on the August 30, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency") which alleged that, from October 23, 1977 until the date of filing of the Complaint (including, but not limited to, November 15, 1977 through November 23, 1977, and April 10, 1978), the Respondent caused or allowed the discharge of contaminants into Kress Creek without an NPDES Permit, in violation of Rule 901 of Chapter 3: Water Pollution Control Regulations and Sections 12(a), 12(b) and 12(f) of the Illinois Environmental Protection Act ("Act"). A hearing was held on February 7, 1979. The parties filed a Stipulation and Proposal for Settlement on June 27, 1979.

Alumax Extrusions, Inc. ("Alumax") owns and operates an aluminum processing plant near the City of West Chicago in Du Page County, Illinois. Alumax currently has separate waste collection systems for domestic sewerage, process wastewater, and storm water. While domestic sewage is discharged into a private disposal system (septic tanks and absorption fields), process wastewater is collected by a separate system and conveyed to the Respondent's process wastewater treatment plant. After treatment, the process wastewater effluent is discharged into Kress Creek, a tributary of the west branch of the Du Page River, pursuant to NPDES Permit No. Ill-0037681.

Concomitantly, a 36-inch storm sewer transports storm water from the building structures to Kress Creek.

The stipulation indicates that, on an occasion in November of 1977, oil-related contaminants were found in Kress Creek in the general vicinity of the storm water and process wastewater discharge points of Alumax and other nearby commercial and industrial plants. (Stip. 2-3). On November 16, 1977, an Agency inspection near the Respondent's facility indicated that oil was being discharged from an unpermitted storm sewer discharge point about 10 feet upstream of the permitted discharge point from the Respondent's treatment pond. At that time, the Agency inspector requested that the Respondent's employees take steps to contain and clean up the oil near the storm sewer discharge. The parties have stipulated that, without admitting any liability, and in the spirit of good faith and civic cooperation, Alumax voluntarily spent \$38,000 to clean up Kress Creek. (Stip. 4). The Company hired an outside contractor for dredging and pumping operations, removed the storm water discharge point to the creek, repaired an oil trap within the plant, and installed an oil skimmer in the remaining storm water effluent to preclude the possibility of any oil discharge into Kress Creek. (Stip. 4-4a). Subsequently, Alumax submitted a sample of the oil from Kress Creek to an independent laboratory for testing. The independent laboratory analysis indicated that the oil contained in the sample was not of the type used by Alumax in its aluminum processing operations. (Stip. 4a).

On April 1, 1978, the Company retained a professional consulting engineer to investigate the possible existence of any sources of oil within its plant that could enter the storm water system. In June of 1978, the consulting engineer ascertained that oil spillage from trucks at the docks, oil drippage from the manufacturing presses, and overflows and blowdowns from cooling water towers might possibly cause some oil to enter the storm water system. On June 17, 1978, Alumax sent a letter to the Agency which described its program to separate any possible oil from the storm water system, and to direct such flows to the process wastewater collection system for treatment. The Company believed that such work required no new NPDES Permit for the storm water system, but simply a modification of the existing NPDES Permit for the process wastewater system (to cover changes in discharge and volume). Accordingly, the Respondent proposed to submit a construction permit modification within 30 days. To implement its plan, Alumax hired an outside contractor in June, 1978 to jet flush all storm water lines in the plant in preparation for the installation of separate process lines within the storm water system lines to achieve a separation of oil from the storm water. However, because of other job commitments and emergency work, the outside contractor did not complete the jet flushing until August 28, 1978. (Stip. 5-6).

Because the Company assumed that the Agency would reply to its letter of June 17, 1978, it delayed the submission of its request for modification of the NPDES Permit and its application for a construction permit while waiting for the Agency's response. However, the Agency expected that the Respondent would automatically submit the necessary applications without any reply from the Agency. (Stip. 6). When no applications were received after 30 days, the Complainant initiated this enforcement action against Alumax.

As an alternative method to achieve compliance, Alumax Extrusions, Inc. has commenced discussions with the City of West Chicago ("City") pertaining to a pre-annexation agreement under which the sanitary sewer system of West Chicago would be extended to the Company's property and the process wastewater would be transported to the City for treatment. Upon completion of the sanitary sewer extension and process wastewater connection, Alumax would cease the discharging of treated process wastewater into Kress Creek and would remove its treatment plant from service. While negotiations with the City of West Chicago are in progress, and while developing its complete oil separation program, Alumax has kept the oil skimmer in operation to assure the separation of any possible oil from the storm water effluent discharge.

The proposed settlement agreement provides that the Respondent shall: (1) promptly follow a detailed compliance plan to achieve separation of any oil from the storm water system (the total estimated cost of the installation and modification work is \$31,400); (2) use its best efforts to effectuate a pre-annexation agreement with the City of West Chicago under which the City's sanitary sewer system would be extended to the Company's property and the process wastewater would be transported to the City for treatment; and (3) pay a stipulated penalty of \$1,000 . The Board, after evaluation of the proposed settlement agreement in light of Section 33(c) of the Act and Procedural Rule 331, finds the Stipulation and Proposal for Settlement to be acceptable. Accordingly, the Respondent is hereby ordered to promptly follow the detailed compliance plan delineated in the Stipulation; use its best efforts to obtain a pre-annexation agreement from the City of West Chicago; and pay the stipulated penalty of \$1,000 .

The Board has also considered the NPDES Permit issues in light of the decision by the U.S. Court of Appeals in Citizens for a Better Environment v. EPA, No. 78-1042, \_\_\_\_\_ F. 2d \_\_\_\_\_ (7th Cir. 1979), and finds that the Board has competent jurisdiction over the subject matter in the Complaint pursuant to Sections 11(b), 12(f) and 13(b) of the Act and Board regulations established thereunder.

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

ORDER

It is the Order of the Illinois Pollution Control Board that:

1. The Respondent shall follow the detailed compliance program to achieve separation of any possible sources of oil within the plant from the storm water system as delineated on pages 7 through 9 of the Stipulation.
2. The Respondent shall use its best efforts to complete and effect a pre-annexation agreement with the City of West Chicago, Illinois, under which all process wastewater will be transported to the City for treatment by means of an extension of the City's sanitary sewer system to be constructed. Upon any such extension and connection, the Respondent will terminate its present process wastewater discharge to Kress Creek. Any such extension shall be pursuant to the requisite Agency permits and the Respondent shall keep the Agency informed as to its progress in achieving the agreement and the connection.
3. Immediately upon receipt of this Board Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$1,000 , which is to be sent to:  
  
Illinois Environmental Protection Agency  
Fiscal Services Division  
2200 Churchill Road  
Springfield, Illinois 62706
4. The Respondent shall comply with all the terms and conditions with the Stipulation and Proposal for Settlement filed June 27, 1979, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 9<sup>th</sup> day of August, 1979 by a vote of 4-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board