

ILLINOIS POLLUTION CONTROL BOARD
November 8, 1972

ENVIRONMENTAL PROTECTION AGENCY)
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 v.) PCB 72-260
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 ROBERT R. DETERS; FABIAN J. DETERS;)
 MARCELLUS J. DETERS; ALVIN L. DETERS;)
 WILLIAM H. DETERS, JR.; and NORMA MARIE)
 DETERS WEIMAN)
)

OPINION & ORDER OF THE BOARD (by Mr. Dumelle)

This is an enforcement action alleging that the respondents owned, operated and controlled the Deters Dairy Farm in Adams County near Quincy, Illinois and that on eight specified dates caused, allowed or threatened the discharge of contaminants, including but not limited to dairy product wastes and cattle lot runoff, into a roadside ditch to an unnamed tributary of Curtis Creek so as to cause water pollution, in violation of Section 12(a) of the Environmental Protection Act. It is further alleged that on the same dates the respondents, through the operation of the Farm, caused substances to be present in the tributary producing color, odor and other conditions in such degree as to create a nuisance, in violation of Rule 1.03 (c) of the Illinois Sanitary Water Board Rules and Regulations of SWB-14 and also Rule 203 (a) of the Illinois Water Pollution Regulations (adopted March 7, 1972).

Hearing was held on September 20, 1972 at which time the parties filed a Stipulation of Facts wherein the respondents admitted to the allegations in the Complaint. The Stipulation further contains twenty exhibits evidencing the scope of the problem.

The Farm is located on 1,090 acres and maintains from 180 to 200 milk cows. There are six family residences of the partners, an office and four rented residences. Two retail outlets are maintained in Quincy and several in the State of Missouri. Production averages from 200,000 to 240,000 pounds of milk and dairy products per month.

Agency inspectors have observed an effluent flow from the Farm of 10 to 20 gallons per minute of a milky white, turbid liquid with lumps of white solid material and billowing foam. It has a sour milk odor. Laboratory analyses of the effluent have shown values up to 1800 mg/l BOD, 2400 mg/l COD, 190 mg/l suspended solids, 3,400,000 per 100 ml of fecal coliform and 11,000,000 for total coliform.

Preliminary abatement plans have been submitted to the Agency for comments. The plans consist of a means of collecting all wastes from the operation into a sump and then pumping it into either a primary or secondary lagoon and from there it will be irrigated onto agricultural land so as to minimize contamination of the waters. If the preliminary plans are acceptable then a formal permit application will be made. If the Farm does receive a permit it is expected to take only 60 days to complete construction of the facilities.

We find that the violations did occur as alleged. We are pleased to see that a solution to the problem will be forthcoming. However, as the observations and analyses indicate, this is a highly contaminated effluent which has caused much harm to the receiving waters. Group Exhibit 12, incorporated by reference into the stipulation, describes these effects vividly. "The ditch was lined with black sludge deposits and contained thick heavy growths and accumulations of green algae and gray fungi (p. 3, B2)..." "the receiving stream flow was solid white in color and had a sour odor. The bed contained thick heavy growths and accumulations of green algae and gray fungi (C2, C3, p. 3)." In addition to the harm to the receiving waters, two neighbors are quoted in the same exhibit as complaining of bad odors from the stream, especially in warm weather (p. 4). This program, being based only on a 60-day construction schedule, could easily have been completed before now. We must conclude that the respondents have not proceeded with due diligence. Upon these circumstances we find that a \$5000 penalty would be appropriate. An examination of the income tax returns discussed below showed that a penalty of this amount would not be excessive.

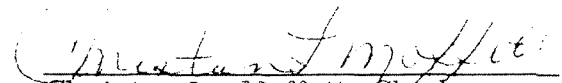
One further point. At the hearing it was agreed between the parties that the respondents' partnership income tax returns for the years 1968, 1969, 1970 and 1971 be admitted into evidence under a protective order for the scrutiny of the Board alone and not to be made public. We grant this confidentiality even though procedural rules were not followed.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The respondents shall cease and desist from all violations found in this opinion after January 22, 1973.
2. The respondents shall pay to the State of Illinois **by** December 15, 1972 the sum of \$5,000 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 Environmental Protection Agency, 2200 Churchill Drive, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 8th day of November, 1972 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board

