

3. On six specified dates from July 1973 until January 1974, Respondent operated its facilities causing unnatural color and odor to flow into the unnamed watercourse in violation of Rule 203(a) of Chapter Three and Section 12(a) of the Act.

4. On five specified dates from August 1973 until January 1974, Respondent operated its facility causing deoxygenating wastes to be discharged into the unnamed watercourse in excess of the standards of Rule 404(a) of Chapter Three and in violation of Section 12(a) of the Act.

5. On seven specified dates from April 1973 until January 1974, Respondent operated its facility causing such amounts of fecal coliform to be discharged into the unnamed watercourse as to violate Rule 405 of Chapter Three and Section 12(a) of the Act.

6. Respondent constructed a new treatment works facility on or about January 1, 1973, without obtaining a construction permit from the Agency in violation of Rule 901(a) of Chapter Three and Section 12(b) of the Act.

7. The new treatment works constructed about January 1, 1973, has been operating without an operating permit in violation of Rule 902 of Chapter Three and Section 12(b) of the Act.

8. From January 17, 1973, until February 5, 1974, Respondent constructed and installed, as part of the new treatment works, new outlets to enable more contaminants to flow into the unnamed watercourse without a permit in violation of Section 12(c) of the Act.

A hearing took place on August 9, 1974, in Joliet, Illinois. A Stipulation and Proposal For Settlement was read into the record. No citizens appeared at the hearing (R.19). The Respondent admitted violating Counts III through VIII of the Amended Complaint (paragraphs 3 through 8, above), agreed to pay a penalty of \$5,000, and submitted with the Agency a program of compliance. In pertinent part, the Terms of Settlement stated:

"9. . . . This proposed settlement is expressly conditioned upon, and effective only with approval thereof in all respects by the Illinois Pollution Control Board. The parties further stipulate that all statements contained herein shall be null, void and of no effect and shall not be used in any further litigation in the event that the Board fails to approve the following terms of settlement in all respects:

"a. Respondent agrees to implement a waste treatment program for the treatment of wastewater from its hog and cattle facilities consisting of the following elements:

- (1) a screening unit to collect the solid material from the wastewater.

- (2) an anaerobic lagoon on neighboring land to the east of the Center with a retention capacity at least equal to 6 months wastewater from the hog and cattle facilities.
 - (3) a method of land application of the waste from the anaerobic lagoon which utilizes the spray irrigation or the ridge and furrow method or a combination thereof.
 - (4) appropriate pipes and pumps needed to implement the above system.
- "b. Respondent will specifically comply with all appropriate portions of the Environmental Protection Act and Regulations adopted thereunder with regard to obtaining construction and operating permits for the program outlined in subparagraphs a(1) through (4) above. The permits will be sought in the following manner:
- (1) A permit application for the construction of the anaerobic lagoon and appurtenances was submitted by Respondent on August 6, 1974. The Agency issued a construct only permit for these facilities on August 9, 1974. Construction shall be completed by September 30, 1974.
 - (2) Respondent will submit permit applications for the remainder of the program (including screening devices and method of land application of waste from the anaerobic lagoon) not later than October 15, 1974. The entire wastewater disposal system described above will be completed not later than June 1, 1975.
- "c. Upon the completion of the anaerobic lagoon and appropriate feeder pipes and pumps, all wastewater from the cattle and hog facilities will be discharged to the lagoon. There is to be no discharge from the lagoon to the land application site until such time as the entire program is completed and properly permitted, as described above.
- "d. The lagoon is to be sealed with clay material in such a manner as to prevent contamination of the ground water.
- "e. The lagoon is to be maintained in an anaerobic state until such time as facts exist which give the Agency reasonable grounds to believe that a violation of Section 9(a) of the Environmental Protection Act has occurred. If the Agency so

believes, it will immediately notify Respondent in writing as to its belief and the facts giving rise thereto, said notice to be in writing to any Officer or the Registered Agent of Respondent by certified mail, return receipt requested. Upon receipt of said notice, Respondent may demand a conference with a representative of the Agency fully empowered to act as described herein, said conference to be held within three weeks of receipt of notice by Respondent. If Respondent is unable to demonstrate to the satisfaction of the Agency's Representative that the facts relied upon are not sufficient to establish a violation of Section 9(a) of the Act, then Respondent shall immediately undertake to convert the lagoon to an aerobid state, and/or implement such other measures as the Agency reasonably believes are necessary to abate odor from the lagoon. Nothing contained herein shall be construed as a limitation upon Respondent's right to judicial review hereof as provided by the Environmental Protection Act or Regulations adopted thereunder, or upon the Agency's right to proceed to enforcement upon any violation of the Act and appropriate Regulations adopted thereunder.

- "f. Respondent shall install, by no later than September 30, 1974, two (2) monitoring wells near the anaerobic lagoon. In addition, Respondent shall install six (6) other monitoring wells located in or proximate to the land application site such that any ground water contamination may be detected. Said wells shall be installed prior to any land application from said anaerobic lagoon. Respondent shall submit monthly reports to the Agency on the last day of each month concerning the condition of groundwater as monitored by said wells.
- "g. Respondent shall dispose of the wastes presently contained in its holding tank by on-site application, no permit being required from the Agency thereof. If disposal cannot be so accomplished on site, the waste will be removed through properly permitted land disposal.
- "h. Respondent shall provide the Agency with a written statement by September 15, 1974, describing its contractual arrangement with the nearby landowner on whose site the program established above is to be implemented.
- "i. Respondent agrees to pay the State of Illinois a penalty of \$5,000 for the violations admitted.
. . .
- "j. Respondent shall obtain any and all other permits

as may be required by the Environmental Protection Act or other rules, regulations or statutes."

We find that the Respondent has violated the regulations and the Act as alleged in Counts III through VIII of the Amended Complaint. We hold that violations of Counts I and II have not been established. We accept the Stipulation and Proposal For Settlement entered into between the parties. The program of compliance will result in the control of contaminants from the facility. The parties have dealt at arms length to resolve the pollution difficulties. Finally, no member of the public appeared at the hearing to oppose the settlement plan.

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. Respondent cease and desist by June 1, 1975, from violations of the Act and Regulations established in this Opinion.

2. Respondent pay a penalty of \$5,000.00 for its violations of the Act and Regulations established in this Opinion. Payment shall be by certified check or money order payable to the State of Illinois, Fiscal Services Division, Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706. Payment shall be made within 35 days of the adoption of this Order.

3. Respondent carry out the Terms of Settlement as contained in the Stipulation and Proposal For Settlement, as also set out in pertinent part in this Opinion.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 7th day of November, 1974, by a vote of 4 to 0.


Christan L. Moffett