

ILLINOIS POLLUTION CONTROL BOARD
August 23, 1973

VELSICOL CHEMICAL CORPORATION,)
)
) Petitioner,)
))
) v.) PCB 73-240
))
ENVIRONMENTAL PROTECTION AGENCY,)
))
) Respondent.)

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

On June 11, 1973, Petitioner, Velsicol Chemical Corporation, a Delaware Corporation, licensed to do business in Illinois, filed with this Board a Petition for Variance.

Petitioner owns and operates an industrial plant in Clark County, near Marshall, Illinois. This facility produces various chemicals, including an insecticide called Chlordane. The effluent from the chemical operations of Petitioner's plant was discharged to East Mill Creek for a number of years.

On August 3, 1972, the Agency filed a complaint against Petitioner with the Pollution Control Board, charging that on several dates its effluent caused violations of §12(a) of the Environmental Protection Act (Ill. Rev. Stat. 1971 Ch. 111 1/2, §1001 et seq) (Act); Rules 1.03(c) and (d), 1.05(d), and 1.08 - 10(b)(3) of SWB-14; Rules 203(a), (f), and (h) and Rule 403 of Chapter 3: Water Pollution of the Illinois Pollution Control Board Rules and Regulations (Chapter 3). On April 5, 1973, the Board found Petitioner to have violated the above-enumerated statutes and regulations, and ordered Petitioner to pay a penalty of \$5,000. The Board also ordered Petitioner to cease and desist all violations of the Act and the Rules, install and operate surface facilities for deep well disposal, and post a performance bond in the amount of \$150,000.

Petitioner seeks relief from Order #2 of Environmental Protection Agency v. Velsicol Chemical Corporation, PCB 72-326, and Velsicol Chemical Corporation v. Environmental Protection Agency, PCB 72-351, Consolidated (April 5, 1973). Specifically, Petitioner desires to intermittently discharge a certain amount of its processing wastewater into East Mill Creek and to forego the posting of a performance bond in the amount of \$150,000.

On August 21, 1972, Petitioner applied for a permit to install and operate surface facilities for deep well injection to all plant effluent and land runoff. A Construction and Operating Permit was issued to Petitioner by the Agency on October 23, 1972. Petitioner alleges that construction of these said facilities has cost approximately \$415,000. Agency investigation indicates that the subject disposal system was placed in operation on May 10, 1973.

Petitioner alleges that on or about May 22, 1973, the seals on its main injection pump failed. The Agency has found that the seal which was originally installed in the Petitioner's main injection pump severely corroded once the subject disposal system was in operation for a short period of time. The utilization of a Tungsten carbide seal as a substitute failed to provide any relief from this problem. Improved packing for this pump has been ordered from the manufacturer to correct the problem. At present, a temporary pump is being utilized with a capacity of about 120 gallons per minute (gpm). Since the volume of effluent discharged from Petitioner's plant averages approximately 180 gpm and since the capacity of the temporary pump is only about 120 gpm, any excess plant effluent is stored in a settling basin on Petitioner's property. Petitioner plans to use the above-mentioned temporary pump and settling basin until repairs to its main pump have been completed. Petitioner, however, has found that the temporary pump and the capacity of the settling basin cannot handle the volume of runoff water which occurs during and subsequent to periods of heavy rainfall. Petitioner states that it has found it necessary during and subsequent to such heavy periods of rainfall to intermittently discharge a portion of its total effluent into East Mill Creek. The Agency has been informed by Petitioner that such discharges have occurred on June 5 and June 19, 1973, and have persisted for approximately 24 hours.

Petitioner alleges that it is not possible to cease the subject intermittent discharges into East Mill Creek until its main pump is repaired and placed back into operation. According to Petitioner, these discharges have occurred on only two occasions and have persisted for about 24 hours. The Board recognizes the plight which Petitioner faces, and believes that the limited relief requested should be granted (i.e. allowing the subject discharges when necessary until July 31, 1973), subject to certain conditions.

Petitioner alleges that the subject intermittent discharges will not adversely affect the environment generally or East Mill Creek in particular, inasmuch as Petitioner's discharges have been and should continue to be sporadic and relatively short-lived. However, the Board wishes to point out that East Mill Creek is presently degraded and this degraded condition has been caused largely by Petitioner's past discharges.

Petitioner further requests relief from the requirement that a bond in the amount of \$150,000 be posted by Petitioner.

Petitioner contends first that the posting of said performance bond was required by the Board to ensure that Petitioner would comply with the requirements for construction and operation of Petitioner's surface facilities for deep well injection. The Board has noted recently that Petitioner's interpretation is incorrect. In response to a Request for Reconsideration and Modification filed by Petitioner and which also sought relief from the bond posting requirement, the Board ruled that its Order requires more than installation of the facility. Specifically, the Board ruled that its Order required not only installation of the subject facilities, but also operation of the facilities "in an acceptable manner in order to meet the requirements of the law." Environmental Protection Agency v. Velsicol Chemical Corporation, PCB 72-326, and Velsicol Chemical Corporation v. Environmental Protection Agency, PCB 72-351, Consolidated (June 7, 1973).

Petitioner next contends that since the posting of said performance bond was required by the Board to ensure that Petitioner would comply with the requirements for installation and operation of the subject facilities (Petitioner's interpretation) and since construction of the facility has been completed, then the posting of a \$150,000 bond is not necessary. The necessity of posting a bond to ensure compliance is all the more necessary in light of Petitioner's current problems with operation of its facilities.

This Opinion constitutes the findings of fact and conclusions of law of the Board.

IT IS THE ORDER of the Pollution Control Board that:

1. The Petition for Variance insofar as it seeks relief from Order #2, parts (a) and (b) of Environmental Protection Agency v. Velsicol Chemical Corporation, PCB 72-326, and Velsicol Chemical Corporation v. Environmental Protection Agency, PCB 72-351, Consolidated (April 5, 1973) to allow the intermittent discharge of up to 100 gpm of Petitioner's effluent and land runoff into East Mill Creek until July 31, 1973, be granted subject to the following conditions:

- (a) the discharges from Petitioner's Marshall plant and settling basin facility into East Mill Creek be eliminated as expeditiously as possible but in any event no later than July 31, 1973,
- (b) discharges from Petitioner's Marshall plant and settling basin facility into East Mill Creek not exceed 100 gallons per minute,
- (c) discharges from Petitioner's Marshall plant and settling basin facility not exceed the concentrations set forth in Exhibit 1 of Petitioner's Petition for Variance, and

- (d) Petitioner immediately notify the Agency in writing of any discharges which occur from its facility.

(2) The Petition for Variance insofar as it seeks relief from the bond posting requirements of Order #2, part (c) of Environmental Protection Agency v. Velsicol Chemical Corporation, PCB 72-326, and Velsicol Chemical Corporation v. Environmental Protection Agency, PCB72-351, Consolidated (April 5, 1973) be denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 23rd day of August, 1973, by a vote of 3 to 0.

Christan L. Moffett