

ILLINOIS POLLUTION CONTROL BOARD

June 9, 1971

ALLIED MILLS, INC.)
)
 v.) PCB #71-16
)
 ENVIRONMENTAL PROTECTION AGENCY)

Mr. Frederick C. Prillaman, for the Environmental Protection Agency
Mr. Lawrence G. Wepler, Chicago, for Allied Mills, Inc.

Opinion and Order of the Board (by Samuel R. Aldrich):

This opinion is in support of an order approved by the Board on May 26, 1971, at the regular Board meeting at Charleston. A copy of the order is attached to this opinion.

Allied Mills, Inc. ("Allied") operates a soybean processing plant in Taylorville, Illinois. Whole soybeans are extracted so as to yield soybean oil and soybean meal, the two basic products of the operation (R.13). Process wastes are treated first in an anaerobic lagoon, then in an aerobic lagoon. The effluent from the lagoon contains suspended solids, organic BOD and some plant nutrients (R.34). The effluent is discharged into an unnamed tributary to the South Fork of the Sangamon River. Rules and Regulations SWB-14 require that wastes receive advanced treatment prior to release into such streams. Municipalities are to comply with the regulations by July 1972. Industries are required to meet the effluent criteria of SWB-14 in accordance with a timetable established by the Pollution Control Board subsequent to inspection of the facilities. Allied Mills, Inc. did not have a timetable for compliance with a BOD of 4 mg/l and suspended solids of 5 mg/l established by the Board.

Allied's existing lagoon system was installed in 1964 and was designed to produce an effluent not exceeding 20 mg/l BOD and 25 mg/l suspended solids. Dr. Jeff Dietz, consultant to Allied on environmental problems, testified at the hearing that these figures were "...satisfactory to the Regional Office of the Sanitary Water Board" and were the accepted standards at that time (R.103). The Agency did not dispute this contention. Results of analyses of the effluent made by the Department of Public Health in 1966 indicated that satisfactory treatment was being accomplished (Allied Exhibit 2).

From 1966 to 1968 Allied expanded its production, apparently without enlarging its treatment facilities. There is no doubt that this expanded production contributed to Allied's recent pollution problems. A sample of the lagoon effluent taken by the Sanitary Water Board on November 13, 1968, exerted a BOD of 500 mg/l (EPA Exhibit 1). A witness for the Agency testified that effluent samples dating back to 1966 showed an average BOD of 274 mg/l (R.135, 136). Allied's own samples taken in late 1970 exerted considerably less BOD (Allied Ex. D). These samples were described by the Agency as unrepresentative. In any event the effluent from the lagoon system has evidently exceeded design criteria for a considerable period of time.

A packet of letters from school children (EPA Ex. 3) objected to granting of the variance. A farmer claimed that Allied's wastes exerted harmful effects on his cattle five miles downstream.

The consulting engineer, after an on-site study, concluded that part of the overloading of the lagoon system was due to BOD of the storm runoff water from the large paved area around the plant. The source of BOD material was identified as dust emissions from soybean processing.

Allied filed a variance petition on February 3, 1971, asking for a period of one year plus additional time as necessary to complete the construction of improved treatment facilities so as to comply with SWB-14 effluent criteria of 4 mg/l BOD and 5 mg/l suspended solids. Allied specifically asked for time to study the problem of the storm runoff load into its lagoon system and for time to complete acquisition of land to receive the storm runoff water. The Company has recently installed equipment to reduce dust emissions and thereby reduce the BOD of the stormwater. Allied had planned to upgrade the lagoon system so as to comply with SWB-14. Their petition stated that the planned improvements could reasonably be expected to bring their effluent into compliance. As a result of further investigations by the Company, it was decided that stormwater runoff could be treated more efficiently and economically through land disposal in a type of irrigation system. Accordingly, Allied filed an amended petition on April 20, 1971. The Company asked for a variance until October 1, 1971, and additional time as necessary to complete its proposed changeover to land disposal of waste water. The Company intends to install a disposal system such that by September 1, 1971, all stormwater wastes can be diverted from the lagoon system to the land area (R.43). Process waste water would be temporarily diverted to the irrigation field by October 1, 1971. At that time Allied will attempt to recondition the lagoon system by removing solids if present especially from the aerobic lagoon. Process water will then be returned to the lagoons. A sampling program will then be initiated to determine the possible need for further treatment in order to meet the effluent requirements of SWB-14. A witness for the Agency testified that he believed the Company's proposed land disposal system would work satisfactorily (R.127). Whether the system will work or not is not at issue here. That is for the Agency to decide under its permit procedures.

Allied testified that when the land disposal system is in operation, the Company believes it will be in full compliance with the rules and regulations of the Board (R.43). This is yet to be demonstrated because SWB-14 will require a BOD of 4 mg/l and suspended solids of 5 mg/l whereas Allied initially designed the lagoon system for 20 and 25 mg/l respectively. Allied does not present quantitative data on the volume or composition of process waste water entering the lagoon system. Such data were not available at the time of the hearing. Automatic flow measurement and sampling devices were installed in March, 1971, and this equipment soon will supply useful information for future planning. The Company will need some time to study the BOD and solids in its lagoon effluent after the storm water is diverted and the lagoons are reconditioned.


Allied's plans for disposal of its wastes on land is contingent upon the acquisition and rezoning of 33 acres of land to the north and east of the present property on which the Company obtained an option April 27, 1971. Counsel for Allied indicated that the land presently zoned as "agricultural" will be requested to be reclassified as "industrial" (R.71, 73). He anticipated that the property would be rezoned and the purchase completed by June 30, 1971 (R.74). It is our hope that this opinion and order will expedite the rezoning of the property to hasten the day when land disposal becomes a reality and the excessive pollution load of the receiving stream will cease.

An important issue raised in this case is the legal responsibility of industry with regard to meeting the requirements of SWB-14. Both the Agency and the Company assumed that the deadline for compliance of July, 1972, applies to industries as well as to municipalities. Indeed, the Agency bases its recommendation that the variance be denied on the fact that the effluent from the lagoons greatly exceeds the specifications of SWB-14 for BOD and suspended solids. However, we interpret Rule 1.08, paragraph 15, of Rules and Regulations SWB-14 to mean that industries are not required to meet the specified effluent standards until the Board establishes a timetable for compliance. To date neither the Pollution Control Board nor its predecessor, the Sanitary Water Board, has established such a timetable. We find, therefore, as in Borden Chemical Company v. EPA, PCB 71-23, that Allied is not now in violation of SWB-14. We anticipate that the Agency will soon develop timetables for all industries as required under Section 1.08 of SWB-14.

We will grant the Company's request for a variance, allowing it sufficient time to complete its planned program for improved waste treatment. Until October 1, 1971, the effluent may exceed 20 mg/l BOD and 25 mg/l suspended solids. In spite of that possibility we feel that the excess discharges are not sufficiently objectionable to justify closing the plant thus causing 125 persons to lose employment and depriving the company of income. Furthermore the period of time is short.

The record indicates that the Company can reasonably be expected to meet the July, 1972, deadline as required of municipalities. Allied expects to have its land disposal system in operation by October 1, 1971. We believe that nine months will be sufficient for Allied to complete whatever additional steps are necessary to achieve full compliance with SWB-14. We will therefore require Allied to meet the standards for advanced treatment specified in SWB-14 by July 1, 1972. To ensure compliance, we will also require the Company to post a performance bond.

I, Regina E. Ryan, Clerk of the Pollution Control Board, certifies that the above Opinion was adopted by the Board on the 9th day of June, 1971.



A handwritten signature in cursive script, reading "Regina E. Ryan", is written over a horizontal line.