

ILLINOIS POLLUTION CONTROL BOARD

September 5, 1996

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 93-250
)	(Enforcement - Air)
)	
CLARK OIL & REFINING)	
CORPORATION,)	
)	
Respondent.)	

JAMES MORGAN APPEARED ON BEHALF OF THE PEOPLE OF THE STATE OF ILLINOIS;

RUSSELL EGGERT, MAYER, BROWN & PLATT APPEARED ON BEHALF OF CLARK OIL & REFINING CORPORATION.

OPINION AND ORDER OF THE BOARD (by E. Dunham):

This matter comes before the Board upon a four-count complaint filed on December 9, 1993, by the Attorney General of the State of Illinois, on behalf of the People of the State of Illinois at the request of the Illinois Environmental Protection Agency (Agency), against Clark Oil & Refining Corporation (Clark). The first three counts of the complaint allege violations related to Clark's Wood River Refinery located in Hartford, Madison County, Illinois. The fourth count of the complaint concerns violations at Clark's Refinery located in Blue Island, Cook County, Illinois and at the Hartford refinery.

Count I of the complaint alleges that Clark violated 35 Ill. Adm. Code 201.141 (1991), Section 9(a) of the Illinois Environmental Protection Act (Act) (415 ILCS 5/9(a)), standard condition 9(b) of its permit and subsection 9(b) of the Act (415 ILCS 5/9(b)) by causing or allowing the emission of catalyst in excess of 85.4 lbs/hr in the operation of its Wood River Refinery located in Madison County, Illinois in April of 1991. Count II of the complaint alleges that Clark violated special condition 5(a) of its permit and subsection 9(b) of the Act by failing to separate leaking components into categories of pumps valves or compressors as required by 40 C.F.R. 60.487(c)(2) (i-vi) and not including the dates of process unit shutdown as required by 40 C.F.R. 60.487(c)(3) in required reports submitted to the Agency concerning the Hartford Refinery. In count III, the People allege that Clark violated subsections 9.1(b) and (d) of the Act in the maintenance of the equipment and the operation at the Hartford Refinery. Count IV of the complaint alleges that Clark violated subsection 25b-2(a) of the Act by failing to include benzene and toluene on its 1988 toxic release forms for its refineries in Blue Island and Hartford, Illinois.

Pursuant to 415 ILCS 5/31(a)(2), the Agency filed a joint motion requesting relief from the Act's hearing requirement on April 1, 1996. The Board published a notice of the waiver on April 3, 1996 in the *Alton Telegraph* and on April 4, 1996 in the *Daily Southtown*. An objection to granting of the waiver of the hearing requirement and a request for hearing was filed on April 22, 1996 by Lionel Trepanier. A hearing was held on July 26, 1996 before Hearing Officer Deb Frank in Chicago, Illinois. Members of the public attended the hearing. The parties elected not to file briefs in this matter.

The parties filed a stipulation and settlement agreement on April 1, 1996. The stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. As part of the settlement, Clark is to pay a penalty of \$40,000.00. Clark has corrected the equipment and recordkeeping violations alleged in the complaint and is including benzene and toluene when filing its release forms. (Tr. at 6.) The parties urge the Board to adopt the settlement.

At hearing, Mr. Trepanier argued that the proposed settlement should not be adopted. He contends that various facts stated in the stipulation are not true and that the proposed penalty will not serve as a deterrent. Paragraph five of the settlement agreement states that the Agency has not received any requests to review respondent's chemical release forms. Mr. Trepanier maintains that this statement is inaccurate and presented the Citizens for a Better Environment Report (Exh. 1.) indicating that the annual facility emission data reports for Clark were requested from the Agency. (Tr. at 12.) He also stated that he had requested information on Clark from the Agency. (Tr. at 15.) Mr. Trepanier also testified on the communities concern over the operation at the Blue Island facility. (Tr. at 20.)

The record before the Board does not include information on how the penalty was determined or a breakdown of the portion of the penalty related to each violation. The Board finds that the amount of the penalty for the violations is reasonable in relation to penalties reached in settlement agreements. The objections raised by Mr. Trepanier relate only to the Blue Island facility. The violations alleged in the complaint relating to the Blue Island facility concerned the filing of toxic release forms. Clark Oil has corrected all the violations alleged in the complaint. Based on the record the Board finds no reason to disrupt the settlement agreement entered into by the parties.

The Board finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180. This settlement agreement in no way affects respondent's responsibility to comply with any federal, state or local regulations, including but not limited to the Act and the Board's pollution control regulations.

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

ORDER

1) The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and Clark Oil & Refining Corporation, a Delaware corporation. The stipulation and settlement agreement are incorporated by reference as though fully set forth herein.

2) Clark shall pay the sum of forty thousand dollars (\$40,000.00). The penalty shall be paid by certified or corporate check made payable to the Treasurer, State of Illinois and noted for deposit into the Environmental Protection Trust Fund and submitted to:

Illinois Environmental Protection Agency
Fiscal Services Section
2200 Churchill Road
P. O. Box 19276
Springfield, IL 62794-9276

The name, number of the case, and Respondent's Federal Employer Identification Number ("FEIN") shall appear on the check. A copy of the check and payment transmittal shall be simultaneously submitted to:

Environmental Control Division
Illinois Office of the Attorney General
500 South Second Street
Springfield, IL 62706

3) Respondent shall cease and desist from any further violations of subsections 9(a) and (b), 9.1(b) and (d)(1) and (2), and 25b-2 of the Act (415 ILCS 5/9(a) and (b), 9.1(b) and (d)(1) and (2), and 25b-2 (1992) and 35 Ill. Adm. Code 201.141, 201.149 and 212.381 (1992).

- a) At its Hartford refinery, respondent shall comply with the condition in its air pollution operating permit for the FCC unit regarding emissions during startup, malfunction and breakdown;
- b) At its Hartford refinery, respondent shall fulfill the recordkeeping and reporting requirements of its air pollution operating permits for the LSF naphtha hydrotreater unit, the hydrogen plant unit and the isomerization unit.
- c) Respondent shall file timely and accurate toxic chemical release forms for benzene and toluene for its Blue Island and Hartford facilities.

4) In addition to any other authority provided by law, respondent shall allow duly authorized representatives of the Attorney General and/or the Agency entry and access to those portions of the respondent's Hartford refinery covered by this Stipulation and Proposal for Settlement to inspect and investigate compliance with the terms and objectives of this Stipulation and Proposal for Settlement, including, but not limited to, taking photographs, reviewing and copying plant records and other documents, and inspecting equipment and process operations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration.")

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the _____ day of _____, 1996, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board