

ILLINOIS POLLUTION CONTROL BOARD
July 26, 1983

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 83-30
)
GENERAL MOTORS CORPORATION,)
)
Respondent.)

GENERAL MOTORS CORPORATION,)
)
Complainant,)
)
v.) PCB 82-115
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

MR. JOSEPH DRAZEK, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY.

BAKER & HOSTETLER (MR. JAMES H. RUSSELL, OF COUNSEL) APPEARED ON BEHALF OF GENERAL MOTORS CORPORATION.

OPINION AND ORDER OF THE BOARD (by W.J. Nega):

This matter comes before the Board on the September 15, 1982 Petition for Hearing and Review of Permit Denial filed by General Motors Corporation (GM) in PCB 82-115. GM petitioned the Board for a hearing on the denial by the Illinois Environmental Protection Agency (Agency) of GM's application for a Construction Permit for a treatment system for the discharges at the 001 and 003 outfalls at GM's Danville foundry.

On March 8, 1983, the Agency filed a Complaint against GM in an interrelated proceeding (i.e., PCB 83-30).

Count I of the Complaint in PCB 83-30 alleged that, on various specified dates between February, 1979 and March 8, 1983, GM allowed effluents containing concentrations of suspended solids, oils, fats and greases, chlorine residual, total iron, total lead, total zinc, and mercury in excess of concentration

and loading limits specified in its NPDES Permit to flow into an unnamed tributary of the Vermilion River from outfalls 001 (cooling water, storm and ground water), 002 (storm and process water), and 003 (storm and ground water) in violation of 35 Ill. Adm. Code 304.141(a) and 309.102 and Sections 12(a) and 12(f) of the Illinois Environmental Protection Act (Act).

Count II alleged that GM allowed effluent discharges to contain excessive concentrations of oils (on 6 specified occasions between August, 1979 and March 8, 1983 from outfall 001); barium and oils (on 2 specified dates during December, 1980 and March, 1981 from outfall 002); and total iron, lead, barium, manganese, oils, and zinc (from February, 1979 until March 8, 1983 from outfall 003) in violation of 35 Ill. Adm. Code 304.124(a) and Section 12(a) of the Act.

Count III alleged that, on February 29, 1980, GM allowed effluent discharges from outfall 001 to contain a visible oil sheen and settleable solids which resulted in the presence of black-colored bottom deposits and a visible oil sheen in the receiving stream, downstream of the discharge location, in violation of 35 Ill. Adm. Code 302.203, 304.105 and 304.106 and Section 12(a) of the Act.

A hearing on PCB 83-30 and PCB 82-115 was held on April 28, 1983. The parties filed a Stipulation and Proposal for Settlement in PCB 83-30 on May 6, 1983.

GM's foundry, which manufactures iron castings for the automotive industry, discharges effluents pursuant to NPDES Permit No. IL 0004138, issued on June 30, 1975, modified on February 4, 1977 and on May 19, 1977, reissued on December 15, 1978 and modified on May 15, 1981. (See: Exhibit A). Although flows from outfall 002 are treated with the control equipment installed pursuant to the variance granted by the Board in PCB 76-205, no treatment is presently provided for effluents discharged from outfalls 001 and 003.

The Agency's investigation of violations at outfall 002 indicates that these excursions were related to start-up problems with the new treatment system and are unlikely to recur in the future. (Stip. 6-7). Therefore, no additional control measures are necessary at outfall 002. (Stip. 7).

Prior to the initiation of enforcement proceedings in PCB 83-30, GM "expressed willingness to develop engineering plans for a skimming/sedimentation tank and retention basin" at outfall 003 by combining its flow with that of outfall 001. (Stip. 12). However, the Agency denied GM's permit application for this system on August 11, 1982 in PCB 82-115. (Stip. 12-13).

Subsequent technical and engineering discussions between the parties ultimately led GM to submit a revised permit application for a somewhat modified proposed treatment system. (See Exhibit D).

This permit application was received by the Agency on December 17, 1982 and the Agency issued the requisite permit (Agency Permit No. 1983-EB-1401) on January 17, 1983. (See: Exhibit C). Accordingly, GM has indicated that it intends to "dismiss" its permit appeal in PCB 82-115. (See: R. 6-7; and letter to Clerk dated May 9, 1983 from Attorney James H. Russell).

The proposed new treatment system will replace outfalls 001 and 003 with a discharge from the skimming/sedimentation tank (now designed as outfall 004); and an overflow discharge from the retention lagoon will then be outfall 005. Details on the discharges from these outfalls have been delineated in the proposed settlement agreement.

The proposed settlement agreement in PCB 83-30 provides that GM admits the violations alleged in the Complaint and agrees to: (1) expeditiously construct and operate the proposed treatment system in accordance with a specified compliance plan and schedule; (2) appropriately discharge effluents in accord with applicable NPDES Permit conditions (including discharges from outfalls 004 and 005); and (3) pay a stipulated penalty of \$5,000.00. (Stip. 13-21).

The Board has previously reserved its decision in this case pending the Governor's signature on HB 1326 pertaining to the deposition of Board penalties into the Environmental Protection Trust Fund. However, on July 25, 1983, the respondent filed a Motion for Decision which indicated that time is of the essence because the Respondent cannot construct its new treatment system under the agreed compliance schedule, nor invoke the construction delay provisions of the Stipulation, until the Board accepts the proposed settlement agreement (and change in seasons may occasion unavoidable construction delays if the time constraints are not met). The Respondent has also stated that the Agency requested that the penalty be paid to the specified payee. The Board finds that an expeditious decision in this matter is necessary so that construction may proceed on schedule and will accept the proposed penalty provision of the Stipulation as originally agreed upon by the parties.

In evaluating the enforcement action and proposed settlement agreement in PCB 83-30, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act and finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180. The Board finds that General Motors Corporation has violated 35 Ill. Adm. Code 302.203; 304.105; 304.106; 304.124(a); 304.141, and 309.102 and Sections 12(a) and 12(f) of the Act. GM will be ordered to follow the compliance plan and schedule set forth in the Stipulation in PCB 83-30 and to pay the stipulated penalty of \$5,000.00. The Board will dismiss GM's permit appeal proceeding in PCB 82-115.

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

ORDER

It is the Order of the Illinois Pollution Control Board that:

1. General Motors Corporation has, in PCB 83-30, violated 35 Ill. Adm. Code 302.203; 304.105; 304.106; 304.124(a); 304.141 and 309.102 and Sections 12(a) and 12(f) of the Illinois Environmental Protection Act.

2. Within 45 days of the date of this Order, General Motors Corporation shall, by certified check or money order payable to the State of Illinois and designated for deposit into the Environmental Protection Trust Fund, pay the stipulated penalty of \$5,000.00 in PCB 83-30 which is to be sent to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
Springfield, Illinois 62706

3. General Motors Corporation shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement in PCB 83-30 filed on May 6, 1983, which is incorporated by reference as if fully set forth herein.

4. The permit appeal by General Motors Corporation in PCB 82-115 is hereby dismissed.

IT IS SO ORDERED.

Board Member J. Anderson concurred.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 26th day of July, 1983 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board