

ILLINOIS POLLUTION CONTROL BOARD
September 23, 1983

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 82-149
)
JACK-RICH, INC., an)
Illinois corporation,)
)
Respondent.)

MR JAMES L. MORGAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MRS. JACQUELINE BRANDENBURG, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the December 27, 1982 Complaint brought by the Illinois Environmental Protection Agency (Agency).

Count I of the Complaint alleged that the Respondent allowed the discharge of effluent from the septic tank system of its livestock slaughtering plant (plant) into an unnamed tributary of Bear Creek (unnamed tributary) to have excessive concentrations of BOD (on April 27, 1981 and October 18, 1982) and suspended solids (on April 27, 1981) in violation of 35 Ill. Adm. Code 304.104; 304.120(c); and Section 12(a) of the Illinois Environmental Protection Act (Act).

Count II alleged that: (1) on July 16, 1980, the Respondent allowed the discharge from the two gutters of the livestock holding pens of effluent containing manure solids; and (2) on April 27, 1981 and October 18, 1982, effluents were discharged from its septic tank system which contained unnatural color, manure solids, and grease in violation of 35 Ill. Adm. Code 304.106 and Section 12(a) of the Act.

Count III alleged that, from July 16, 1980 until December 27, 1982, the Respondent has, as a result of wastewater discharges from the livestock holding pen gutters, deposited contaminants

upon the hillside of an agricultural field that slopes to an unnamed receiving stream, thereby creating a water pollution hazard in violation of Section 12(d) of the Act.

Count IV alleged that, on December 15, 1981, the Respondent allowed the discharge of effluent from its plant which caused the dissolved oxygen level to be 2.7 mg/l in Bear Creek downstream of its discharge; and, on July 28, 1981, September 28, 1981, December 15, 1981, and October 18, 1982, caused excessive concentrations of ammonia nitrogen in nearby waters in violation of 35 Ill. Adm. Code 302.206; 302.208; 304.105 and Section 12(a) of the Act.

Count V alleged that the Respondent discharged effluents into receiving waters on July 16, 1980, April 27, 1981, July 28, 1981, September 21, 1981, September 22, 1981, September 28, 1981, December 14, 1981, December 15, 1981, and October 18, 1982, which caused the waters to contain floating manure solids, grease, unnatural color, odor, and turbidity, sludge deposits and unnatural plant or algal growth in violation of 35 Ill. Adm. Code 302.203; 304.105 and Section 12(a) of the Act.

Count VI alleged that, from July 16, 1980 until December 27, 1982, the Respondent has allowed discharges from its plant to occur without the requisite NPDES Permit from the Agency in violation of 35 Ill. Adm. Code 304.141(b); 309.102; and Section 12(f) of the Act.

Hearings were held on March 25, 1983 and May 2, 1983. The parties filed a Stipulation and Proposal for Settlement on May 6, 1983. On June 16, 1983, the Board entered an Interim Order which requested additional information as to the nature and size of the Respondent's operation, the extent of the environmental damage, and the reasons for setting the proposed penalty at the \$3,000.00 figure. On August 3, 1983, the Agency filed a Motion for Extension of Time which requested additional time to respond to the Board's Interim Order. On August 18, 1983, the Board granted the Agency's motion. On August 23, 1983, the parties filed a Revised Stipulation and Proposal for Settlement (Stip.) which included additional information and copies of the Respondent's U.S. Corporation Income Tax Returns for 1980, 1981, and 1982 (as well as a letter from the Respondent's certified public accountants).

The Respondent, Jack-Rich, Inc., owns and operates a meat packing plant called Diamond Meat Packers which is located near Carlinville, Macoupin County, Illinois. The number of employees at the Respondent's plant fluctuates between 100 and 160 persons depending on general business conditions and seasonal factors. The Respondent is an Illinois corporation and was incorporated in 1971. (Stip. 2).

In its processing plant, between 200 to 500 hogs per day are slaughtered and processed for sale in the United States and abroad. The Respondent's slaughtering process consists of stunning the hogs with electricity, cutting the hogs' throats and draining their blood, chilling the carcasses, and then butchering the carcasses into the desired cuts. (Stip. 2). Washdown water from the hog processing areas and the kill room is transported to a septic tank tile field system. Blood from the kill room was discharged to the septic tank tile field system prior to the fall of 1982. However, since the fall of 1982, Jack-Rich, Inc. has started collecting this blood for pick-up by a firm dealing in livestock byproducts. Hair from the dehairing process, viscera, and other inedible process byproducts are also collected by the Respondent for pick-up by various firms dealing in livestock byproducts. (Stip.2-3).

Since July 16, 1980, effluent from the Respondent's processing plant has been transported to a septic tank tile field system and then discharged to an unnamed receiving stream which is tributary to Bear Creek. Additionally, effluent from livestock holding pens has been collected in two gutters and then discharged to a hillside above the unnamed tributary. The unnamed receiving stream extends for about 200 feet before joining the unnamed tributary of Bear Creek at a point approximately 400 to 500 feet south of Illinois State Highway 108. The unnamed tributary, which has a width of about 4 to 6 feet and extends about 1/2 mile from its juncture with the unnamed receiving stream before reaching Bear Creek, originates north of Illinois State Highway 108 and receives drainage from the general highway area. Various areas along this unnamed tributary and near Bear Creek are used as pastures for livestock. (Stip. 3).

On July 11, 1980, an employee of the U.S. Department of Agriculture Livestock Inspection Service complained to the Agency about two improper wastewater discharges occurring at the Respondent's plant. (Stip. 6). Residents who live in the vicinity of the Respondent's facility have also complained to the Agency on separate occasions about strong odors and unnatural colors in Bear Creek downstream of the plant. (Stip. 6-7). It is stipulated that, on various specified dates, excessive concentrations of ammonia nitrogen, suspended solids, and BOD (as well as manure solids, grease, sludge deposits, hair, animal tissue, and unnatural odors, turbidity, and color) were present in receiving waters due to improper effluent discharges from the Respondent's plant. (Stip. 4-6).

The Respondent's Federal income tax returns indicate that Jack-Rich, Inc. had total assets of \$1,376,695.00 in 1982. As indicated in the letter dated August 12, 1983 submitted by the Respondent's certified public accountants, Jack-Rich, Inc. has

experienced "severe shortages of working capital for the past few years" as shown by negative cash balances and bank note balances. The company showed a loss of \$140,161.00 in 1980. In 1981, the Respondent had a taxable income of \$138,111.00, while in 1982 there was a taxable income of \$130,898.00. Although sales increased from \$8,034,016.00 in 1980 to \$10,710,103.00 in 1981 and \$18,643,535.00 in 1982, it appears that the Respondent's profit has not kept pace with increasing revenues. According to the 1982 Federal tax return, the corporate officer who owns 51% of the common stock of the corporation received no compensation whatsoever in 1982 and the two other corporate officers were modestly compensated in 1982 considering the size and financial condition of the Respondent's operations.

The proposed settlement agreement provides that the Respondent admits the violations alleged in the Complaint and agrees to: (1) cease and desist from further violations; (2) install a wastewater treatment system to treat all effluent discharged from its plant according to a specified compliance schedule; (3) promptly apply for the requisite NPDES Permit; (4) expeditiously develop, submit to the Agency for approval, and implement a plan to minimize waste discharges which will include measures for proper disposal of offal material, collection of blood, water conservation, and optimum maintenance of the septic tank system; (5) meet interim monitoring and reporting requirements as set by the Agency for sampling plant effluent for ammonia nitrogen, suspended solids, BOD, and pH; and (6) payment of a stipulated penalty of \$3,000.00 in two equal installments of \$1,500.00 each. (Stip. 7-10).

In evaluating this enforcement action and proposed settlement agreement, 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 has previously reserved its decision in this case pending the Governor's signature of HB 1326 pertaining to the deposition of Board penalties into the Environmental Protection Trust Fund. On September 19, 1983, the Governor signed the above bill into law.

Accordingly, the Board finds that the Respondent, Jack-Rich, Inc., has violated 35 Ill. Adm. Code 302.203; 302.206; 302.208; 304.104; 304.105; 304.106; 304.120(c); 304.141(b); and 309.102 and Sections 12(a), 12(d), and 12(f) of the Act. The Respondent will be ordered to cease and desist from further violations; follow the compliance plan and schedule set forth in the Stipulation; and to pay the stipulated penalty of \$3,000.00 in two equal installments.

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. The Respondent, Jack-Rich, Inc. has violated 35 Ill. Adm. Code 302.203; 302.206; 302.208; 304.104; 304.105; 304.106; 304.120(c); 304.141(b); and 309.102 and Sections 12(a), 12(d), and 12(f) of the Illinois Environmental Protection Act.

2. The Respondent shall cease and desist from further violations.

3. Within 45 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois and designated for deposit into the Environmental Protection Trust Fund, pay a first installment of \$1,500.00 on the total penalty of \$3,000.00 which is to be sent to:

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


The second installment \$1,500.00 on the total penalty of \$3,000.00 shall be made within 90 days of the date of this Order, in the same manner and fashion as the first installment.

4. The Respondent shall comply with all the terms and conditions of the Revised Stipulation and Proposal for Settlement filed on August 23, 1983, which is incorporated by reference as if fully set forth herein.

IT IS SO ORDERED.

Chairman Dumelle dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 23RD day of September, 1983 by a vote of 4-1.



Christan L. Moffett, Clerk
Illinois Pollution Control Board