

ILLINOIS POLLUTION CONTROL BOARD
April 2, 1981

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 76-241
)
GEORGIA-PACIFIC CORPORATION,)
a Georgia Corporation,)
)
Respondent.)

PATRICK J. CHESLEY AND BRIAN E. REYNOLDS, ASSISTANT ATTORNEYS GENERAL,
APPEARED ON BEHALF OF THE COMPLAINANT.

RICHARD A. HORDER, ATTORNEY AT LAW AND REGIONAL COUNSEL OF THE
GEORGIA-PACIFIC CORPORATION, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the September 28, 1976 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). After various discovery motions were filed, the Agency filed a Motion to Stay the proceedings pending the approval of a grant to the Taylorville Sanitary District to expand its treatment plant (which would allow the Respondent to tie-in to the Taylorville sewer system).

In the Agency's Motion to Stay the proceedings in this case (which was filed on July 14, 1977), the affidavit of the Assistant Attorney General noted that:

"...The alleged odor problems caused by Georgia-Pacific are believed to come from two wastewater treatment lagoons. If the Taylorville Sanitary District's expansion grant is approved, then Georgia-Pacific will be able to discharge its wastewater to the Taylorville Sanitary District for treatment. Georgia-Pacific will then eliminate the lagoons by dewatering and covering, thus eliminating the odor problem.

...During the pendency of the approval of the grant, Georgia-Pacific has agreed to undertake interim steps to reduce its alleged odor problem. Georgia-Pacific has agreed to dewater the first of its twenty-five acre lagoons, then excavate, cover, and lime the sludge accumulations.

A small pre-settling pond will replace the first lagoon. Also, the two aerators from the first lagoon will be moved to the second lagoon. At the present time, Georgia-Pacific has almost completed dewatering the first lagoon.

...The Environmental Protection Agency feels that Georgia-Pacific has proceeded at an acceptable rate in accomplishing its interim solution...the grant applications made by the Taylorville Sanitary District...are being processed and...there appears to be no problem with approval...However, there still exists the possibility that problems could arise..."

On August 4, 1977, the Board granted the Agency's Motion to Stay. On October 31, 1978, the Agency filed a Motion to Terminate the Stay imposed by the prior Board Order of August 4, 1977 and filed a Motion for Leave to File an Amended Complaint and an Amended Complaint. On November 16, 1978, the Board granted the Agency's Motion to Terminate the Stay and granted the Agency's Motion for Leave to File an Amended Complaint. On November 5, 1979, the Agency filed a Motion to Amend the Complaint and a Second Amended Complaint. This motion was subsequently granted by the Hearing Officer in an Order dated June 15, 1980.

Count I of the Second Amended Complaint alleged that, intermittently from August 13, 1974 until November 5, 1979, the Georgia-Pacific Corporation (the "Company") allowed the improper discharge of odors from two lagoons at its sewage treatment facility in violation of Rule 102 of Chapter 2: Air Pollution Control Regulations ("Chapter 2") and Section 9(a) of the Illinois Environmental Protection Act ("Act").

Count II alleged that, on or before December 9, 1970, the Company installed without a permit "certain equipment, including but not limited to aerators, which constituted a deviation from approved plans as defined by Rule 1.04 of Article I of the Sanitary Water Board's Rules and Regulations, continued in effect by Section 49(c) of the Environmental Protection Act," in violation of Section 12(b) of the Act.

Count III alleged that, from November 1, 1977 until November 5, 1979, the Company's wastewater discharges to the South Fork of the Sangamon River, a navigable Illinois water, were in excess of the effluent limitations in its NPDES Permit for BOD₅ and total suspended solids in violation of Rules 410(a) and 901 of Chapter 3: Water Pollution Control Regulations ("Chapter 3") and Sections 12(a) and 12(f) of the Act.

Count IV alleged that, from September 17, 1979 until November 5, 1979, discharges from the Respondent's sewage treatment facility into the South Fork of the Sangamon River caused unnatural color and turbidity and caused dissolved oxygen levels to be less than 5.0 mg/l

in violation of Rule 402 of Chapter 3 and Section 12(a) of the Act.

A hearing was held on October 31, 1980. The parties filed a Stipulation and Proposal for Settlement on December 30, 1980.* On February 4, 1981, the parties filed a Joint Motion to Correct Clerical Error which requested that the Board allow the parties to substitute a corrected page 9 for the old page 9 of the previously filed Stipulation of Facts and Proposal for Settlement. This motion will be granted.

The Georgia-Pacific Corporation is "engaged in the business of stationery paper manufacturing, at a mill located at Elm Street and Hopper Drive, in Taylorville, Christian County, Illinois." (Stip. 2). Wastewater from the Elm Street mill flows to the Company's sewage treatment plant which is "located Southeast of Taylorville on the Southeast side of Illinois Route 48 approximately three quarters of a mile Southwest of the junction of Illinois Route 48 and Illinois Route 29." (Stip. 2).

It is stipulated that "odors have intermittently been generated by the facility and have been carried by the wind to the homes of nearby residents" since "at least August 13, 1974". (Stip. 2). Additionally, the parties have agreed that odors from the plant have caused air pollution frequently during the summer months and intermittently at other times. (Stip. 2). However, the parties have indicated that the intensity and frequency of these odors diminished during the summer of 1980. (Stip. 3).

Although the Company originally installed aerators at its plant without a permit, on February 28, 1977 the Agency issued the Respondent a permit to operate these aerators. (Stip. 3). Subsequently, on June 10, 1977, the Agency issued an NPDES Permit for the Company to allow wastewater discharges from the lagoons at the plant (i.e., "a discharge occurs from the second lagoon via a point source into the South Fork of the Sangamon River"). (Stip. 3-4).

The parties have stipulated that effluent discharges often exceeded the NPDES Permit limitations for BOD₅ and total suspended solids during the time period from November, 1977 until November, 1979. (Stip. 4-5). Moreover, it is stipulated that discharges from the second lagoon at the Company's sewage treatment plant "caused the South Fork of the Sangamon River to appear red or pink" during September and October of 1979. Agency inspection and water sampling during this time period revealed that the cause of the red or pink color "was a rupture in the baffle in lagoon two. This rupture, which has since been repaired, allowed the wastewater to be discharged without sufficient retention time". (Stip. 5).

*Although the settlement agreement was not signed at the time of the hearing, the substance of the Stipulation filed on December 30, 1980 was presented. The Board finds that Procedural Rule 331 has been substantially complied with.

Compounding the environmental problems, various private homes attached their sewer lines to the main line which carries wastewater from the mill to the Company's sewage treatment plant. (Stip. 6; R. 45-46). These improper connections "occurred without the knowledge or permission of the Respondent." (Stip. 6).

The Company has already spent about \$60,000.00 on an Agency-approved interim program to eliminate the odor and effluent problems and "anticipates that an additional \$60,000 will be necessary to complete" this interim program. (Stip. 6).

Moreover, one proposed long-range solution to the odor and effluent problems is for the Company to entirely discontinue the use of its sewage treatment plant and to discharge wastewater from the mill directly into the Taylorville Sanitary District. (Stip. 6).

The proposed settlement agreement provides that the Company agrees to discontinue the use of its sewage treatment plant "as soon as its wastewater from the mill is discharged into the Taylorville Sanitary District." (Stip. 7). However, if the Company determines that this alternative is economically infeasible before starting to discharge to the Taylorville Sanitary District, the Company has agreed to immediately notify the Agency in writing of this situation. (Stip. 7). If this is the case, the Company has agreed that, within 3 months, it will submit an appropriate compliance plan and schedule to the Agency. (Stip. 7).

Additionally, the Company has agreed to take various specified steps to minimize environmental problems until the proposed tie-in to the Taylorville Sanitary District takes place. (Stip. 7). These measures include: (1) the addition of lime to the wastewater which flows from the mill; (2) the construction of presettling ponds; (3) the covering of specified areas with dirt and the subsequent seeding, fertilization, and the establishment of vegetative growth; (4) proper maintenance of the baffle in lagoon two; and (5) compliance with specified effluent limits for BOD₅ and total suspended solids discharged from lagoon two to the South Fork of the Sangamon River. (Stip. 7-9).

The Company and the Agency have also agreed that:

"...once the wastewater from the mill is tied-into the Taylorville Sanitary District, lagoon two will be drained by pumping the liquid to irrigate the vegetative growth in lagoon one. After lagoon two is drained, it will be covered, fertilized and a vegetative growth established within one year in the same manner as used for lagoon one, unless the Respondent demonstrates that it would cause an arbitrary and unreasonable hardship to comply with this time limitation. If this abandonment plan for lagoon two proves infeasible, impractical or is found to cause a violation of the Act or regulations, then the Parties agree to meet and discuss alternative solutions." (Stip. 9).

Additionally, the Company has agreed to pay a stipulated penalty of \$10,000.00 and to obtain all the requisite permits necessary to accomplish the measures delineated in the proposed settlement agreement. (Stip. 10).

At the hearing, various witnesses testified pertaining to their views of the proposed Stipulation. Mr. John Musatto, an "environmentalist" and ex-employee and stockholder of Georgia-Pacific, testified that fishing and trapping activities in the South Fork of the Sangamon River had been adversely affected by the activities of either the Company or local farmers. (R. 27-28). Mr. Musatto expressed the opinion that he thought "the settlement is okay" but could not understand why matters took so long. (R. 29).

Mrs. Sandy McArdel testified that her house is a quarter mile north of the Company's lagoons and she was upset because she found out this year that her land was appraised 10% less because it was located near to the Company. (R. 31). She indicated that the Company was "supposed to be dumping lime" in the lagoons "to take care of the smell until they hook on to the Sanitary District" and indicated that the smell had not entirely cleared up after lime was dumped into the lagoons. (R. 31-33). In response to her concerns about the delays involved in this case, the Assistant Attorney General explained the various activities which delayed matters. (R. 34-36).

Mr. Gary Merker, a resident of Taylorville, testified that "the settlement, as proposed, to me sounds like a logical and workable solution". (R. 38).

Mr. Tony Laurenzana, a Taylorville resident, testified to the effect that there were odor problems during the summer which affected the prospective value of nearby land. (R. 41).

Mr. Richard Horder, the attorney for the Respondent, testified to present the Company's position on this matter. He stated that although the Respondent didn't really know what is causing the odor, there are about 25 to 30 people who improperly tied into the Respondent's sewage treatment system. (R. 45-46). Mr. Horder also testified that most of the delays were caused by factors which were beyond the control of the Company. (R. 46-48).

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. The Board finds the settlement agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Board finds that the Respondent, the Georgia-Pacific Corporation, has violated Rule 102 of Chapter 2: Air Pollution Control Regulations, Rules 402, 410(a), and 901 of Chapter 3: Water Pollution Control Regulations, and Sections 9(a), 12(a), 12(b), and 12(f) of the Illinois Environmental Protection Act. The stipulated penalty of \$10,000.00 will be assessed against the Respondent.

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, the Georgia-Pacific Corporation, has violated Rule 102 of Chapter 2: Air Pollution Control Regulations, Rules 402, 410(a), and 901 of Chapter 3: Water Pollution Control Regulations, and Sections 9(a), 12(a), 12(b), and 12(f) of the Illinois Environmental Protection Act.

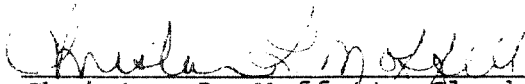
2. Within 60 days of the date of this Order, the Respondent shall, by certified check or money order payable to the State of Illinois, pay the stipulated penalty of \$10,000.00 which is to be sent to:

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

3. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed December 30, 1980, which is incorporated by reference as if fully set forth herein.

4. The Joint Motion to Correct a Clerical Error in the Stipulation of Facts and Proposal for Settlement filed by the parties on February 4, 1981 is hereby granted.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 2nd day of April, 1981 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board