

ILLINOIS POLLUTION CONTROL BOARD  
January 4, 1979

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 78-180  
 )  
BULK SERVICE CORPORATION, )  
a Nevada corporation, )  
 )  
Respondent. )

MR. STEPHEN T. GROSSMARK, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

HUBACHEK, KELLY, RAUCH & KIRBY, ATTORNEYS AT LAW (MR. ROBERT O. WIENKE\* , OF COUNSEL), APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the July 3, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). Count I of the Complaint alleged that the Respondent operated its rail hopper and choke unloading facility from February 1, 1973 until July 3, 1978 without first obtaining an Operating Permit from the Agency in violation of Rule 103(b)(2) of Chapter 2: Air Pollution Control Regulations and Section 9(b) of the Illinois Environmental Protection Act ("Act"). Count II of the Complaint alleged that Bulk Service Corporation ("Bulk Service") emitted particulate matter into the atmosphere from the rail hopper and choke unloading facility in 1976 which were in excess of the allowable emissions in violation of Rule 203(b) of Chapter 2: Air Pollution Control Regulations and Section 9(a) of the Act. A hearing was held on November 28, 1978. The parties filed a Stipulation and Proposal for Settlement on December 1, 1978.

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\*The Respondent was not represented by counsel at the hearing, but Respondent's counsel was instead in communication with the Hearing Officer and had requested that the Stipulation and Proposal for Settlement be admitted into evidence. (Record, p.4).

The stipulated facts indicate that Bulk Service was incorporated in Illinois on or about December 6, 1956. Nevada CID Corporation, a Nevada corporation, became qualified to do business in Illinois on or about March 8, 1977. Bulk Service merged into Nevada CID Corporation on or about March 28, 1977. Nevada CID Corporation changed its name to Bulk Service Corporation on or about May 26, 1977. (Stipulation, p. 2).

Bulk Service Corporation has owned and operated a rail dump and choke unloading facility (the "facility") in the Tri-City Regional Port District near Granite City in Madison County, Illinois, since at least April 13, 1972. (Stipulation, p. 2-3). The facility consists of three choke pits which are used to transfer dry materials such as soybean meal, corn pellets, and soda ash from rail hopper cars to barges. These choke pits have been operated 24 hours per day (except for Christmas Day and New Year's Day), 7 days per week, and 52 weeks per year during each year since two choke pits were installed in 1969 and the third in 1976. (Stipulation, p. 3).

Bulk Service transferred approximately 1,000,000 short tons of dry material in 1976; 890,000 short tons in 1977; and 580,000 short tons as of July 31, 1978, at its facility. However, the Company has never possessed an Operating Permit from the Agency to operate any of the choke pits at the facility. Bulk Service applied for an Operating Permit on December 5, 1977. The application was returned for additional information on December 15, 1977. A Notice of Violation was sent to Bulk Service on March 17, 1978. (Stipulation, p. 3).

Three construction permits were issued to Bulk Service on July 6, 1978, to construct three different types of particulate control equipment on the choke pits. Construction pursuant to, and in compliance with, these Construction Permits was completed on August 14, 1978. (Stipulation, p. 3-4). It is stipulated that one method of particulate control constructed on one of the choke pits is preferable over the methods of control constructed on the other two choke pits and is capable of bringing the facility into compliance. (Stipulation, p. 4). Accordingly, Bulk Service has agreed to install this more satisfactory method of particulate control on the remaining two choke pits. (Stipulation, p. 4).

The proposed settlement agreement also provides that Bulk Service Corporation: (1) admits that it has not had an Operating Permit since June 1, 1973, in violation of Rule 103(b)(2) of Chapter 2: Air Pollution Control Regulations; (2) admits that in 1976 it emitted particulate matter in excess of that allowable under Rule 203(b) of Chapter 2: Air Pollution Control Regulations, in violation of that Rule; (3) agrees to promptly file Construction

Permits with the Agency for construction of the agreed upon particulate control equipment on the remaining two choke pits; (4) agrees to complete construction of the particulate control equipment on the two remaining choke pits pursuant to the Construction Permits within 30 days of receipt by Bulk Service of Construction Permits issued by the Agency; (5) agrees to apply to the Agency for Operating Permits for the particulate control equipment on the three choke pits within two weeks of when construction of the control equipment is completed; and (6) agrees to pay a stipulated penalty of \$500.00 for the violations admitted.

In evaluating this enforcement action and proposed settlement, 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. Incinerator, Inc. v. Illinois Pollution Control Board, 59 Ill. 2d 290, 319 N.E. 2d 794 (1974). Accordingly, the Board accepts the Stipulation and Proposal for Settlement and finds that Bulk Service Corporation has violated Rule 103(b)(2) and Rule 203(b) of Chapter 2: Air Pollution Control Regulations and Section 9(a) and Section 9(b) of the Illinois Environmental Protection Act. The Board imposes the stipulated penalty of \$500.00 .

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. Bulk Service Corporation has violated Rule 103(b)(2) and Rule 203(b) of Chapter 2: Air Pollution Control Regulations and Section 9(a) and Section 9(b) of the Illinois Environmental Protection Act.

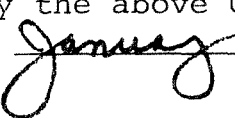
2. Within 35 days of the date of this Order, Bulk Service Corporation shall pay the stipulated penalty of \$500.00 , payment to be made by certified check or money order to:

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

3. Bulk Service Corporation shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed December 1, 1978, which is incorporated by reference as if fully set forth herein.

Mr. Dumelle concurred.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 4<sup>th</sup> day of January, 1979 by a vote of 4-0.

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