

ILLINOIS POLLUTION CONTROL BOARD
April 17, 1980

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 79-60
)
 ILLINOIS TANK & TRUCK WASH, INC.,)
)
 Respondent.)

MS. NANCY J. BENNETT, ASSISTANT ATTORNEY GENERAL, appeared on behalf of the Agency.

MR. BRUCE L. ZUMSTEIN: CODO, BONDS AND ZUMSTEIN appeared on behalf of Respondent.

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

The Complaint in this case, filed on March 20, 1979, alleges that Respondent violated Rules 951, 952(a), 953(a), 404(f) or 401(c) in that Respondent's effluent exceeded five times the numerical standard in 404(f) of Chapter 3: Water Pollution. Also alleged were violations of Sections 12(a), 12(b) and 12(d) of the Act caused by Respondent's discharge of wastewater. A hearing was held on October 9, 1979 in Joliet, Illinois.

At the hearing, the parties had agreed to submit a Written Stipulation of Facts by November 26, 1979. On February 7, 1980 an Interim Order was issued by the Board requesting receipt of this Stipulation within 30 days. The Board has not received this document and now decides the case on the record before it.

The stipulated facts as agreed to by the parties at the hearing stated that Respondent is in the business of cleaning truck tanks in Will County, Illinois. The cleaning process utilized approximately 100 gallons of water per truck at the time this Complaint was filed. Steam is now used for truck cleaning. Respondent's wastewater treatment system was built in mid-1977, without Agency permits. A permit application was subsequently applied for and granted by the Agency on March 16, 1978. This system, as permitted was to contain two concrete settling tanks in series followed by a holding pond designed to hold tank truck wash water with no discharge (R. 7). A Complaint was filed by

modifications being made to the treatment system, again without Agency permits (R. 6). Respondent's failure to obtain construction and operating permits violates Rules 951, 952(a) and 953(a) and Section 12(b) of the Act.

The parties stipulated that spillages have occurred at the site during times wastes are pumped from the holding pond or settling tanks into tank trucks to be hauled to sanitary landfills; also spillages have occurred due to rainfall (R. 10, 22-23).

A farm is located within 25 feet of the holding lagoon and downgradient of the lagoon. Approximately 200 yards south of the truck wash operations is located a trailer park which has drinking wells. The ground in these areas is generally silty loams with gravelly subsoils (R. 11). Respondent's Permit No. 1978-EA-409 to conduct its wastewater collection operation requires that there be no discharge from Respondent's facilities. The facts support a finding that Respondent's spillages constitute a violation of Section 12(b) of the Act. The discharge is a potential threat to groundwater in the surrounding vicinity in violation of Sections 12(a) and 12(d) of the Act.

Samples were taken from a swampy area near the holding lagoon on Respondent's property. A witness for the Agency testified that a liquid was coming off the low area adjacent to Respondent's holding pond, which appeared the same as the material in the pond (R. 37). Apparently the liquid had seeped through the berm of the pond rather than by spilling over the top (R. 40). Samples from the pond and low area revealed the composition of the water from the two areas to be similar in contents, smell and appearance (Respondent's Exhibit's 4 and 5). The samples do not conclusively indicate that the water caused pollution of the wells or other waters in the area (R. 23, 31). However, the concentrations of BOD₅ and suspended solids in the discharge greatly exceed the limitations specifically provided in Rule 404(f).

Although Respondent stated that its violations were unintentional and that steps are being taken to alleviate the flow from the holding pond, it must be noted that intent is not an exclusive element considered by the Board in determining whether or not a violation has occurred.

Through the stipulated facts and evidence presented at the hearing Respondent's have been shown to violate Rule 404(f) of Chapter 3: Water Pollution and Section 12(a), 12(b) and 12(d) of the Act through its discharges and Water Rules 951, 952(a) and 953(a) through its modification and operation of a wastewater treatment system without having obtained necessary Agency permits.

After review of the factors in Section 33(c) of the Act the Board finds that a cease and desist order is appropriate to prevent any interference with the protection of the health, general welfare and physical property of those adjacent to Respondent's operation as a result of its discharges. Respondent's proposed modifications of its system are reasonable and appropriate for the amount and kind of waste water involved. A \$500 penalty payable within 35 days of the date of this Order is imposed to aid in the enforcement of the Act.

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

ORDER

- 1) Respondent has violated Rules 951, 952(a), 953(a) and 404(f) of Chapter 3: Water Pollution and Sections 12(a), 12(b) and 12(d) of the Environmental Protection Act.
- 2) Respondent shall cease any desist from any further violations of Rules 951, 952(a), 953(a) and 404(f) of Chapter 3: Water Pollution and Sections 12(a), 12(b) and 12(d) of the Act.
- 3) Within 35 days of the date of this Order, Respondent shall forward the sum of \$500 by certified check or money order, payable to the State of Illinois to:

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

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were certified on the 17th day of April, 1980 by a vote of 5-0.

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