

ILLINOIS POLLUTION CONTROL BOARD
November 15, 1979

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-300
)
ARCHER-DANIELS-MIDLAND CO.,)
a Delaware corporation,)
)
Respondent.)

MR. REED W. NEUMAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. RICHARD P. REISING, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the December 4, 1978 Complaint brought by the Illinois Environmental Protection Agency ("Agency"). Count I of the Complaint alleged that, from July, 1978 until the date of filing of the Complaint, the Respondent's grain milling and refining plant ("East Plant") has discharged organic and other wastes into sewers flowing to small streams flowing through Faires Park in Decatur and on into Lake Decatur, causing an unnamed stream tributary to Lake Decatur to be black in color and have bottom mold growths, black sludge deposits and a septic odor in violation of Rules 203(a) and 402 of Chapter 3: Water Pollution Control Regulations ("Chapter 3") and Section 12(a) of the Illinois Environmental Protection Act ("Act"). Counts II through VI alleged respectively that, from July, 1978 until the date of filing the Complaint, discharges of effluents from the East Plant into the unnamed stream tributary to Lake Decatur have caused levels of phosphorus; dissolved oxygen; color, odor and turbidity; BOD₅ and suspended solids; and fecal coliform that are in violation of Rules 203(a), 203(c), 203(d), 401(c), 402, 403, 404(f) and 405 of Chapter 3 and Section 12(a) of the Act. Count VII alleged that the Respondent allowed the discharges of contaminants into Illinois waters without an NPDES Permit in violation of Rule 901 of Chapter 3 and Section 12(f) of the Act. A hearing was held on September 10, 1979. The parties filed a Stipulation and Proposal for Settlement on October 15, 1979.

Archer-Daniels-Midland Company owns and operates a grain milling and refining plant ("East Plant") at 4666 Faries Parkway in Decatur, Illinois which processes corn and soybeans. The Respondent's soybean

oil refinery and corn sweetener plant both employ pretreatment systems for process wastes. However, on occasion, spills at the plant have caused contaminated process wastes to bypass the Respondent's pretreatment system. (Stip. 3). These fugitive (i.e., spilled) wastes have occasionally entered Faries Park Creek (which is a tributary to Lake Decatur that runs through, and adjacent to, the Respondent's property). On these occasions, the contaminated process wastes flowed into Lake Decatur. (Stip. 3).

Agency inspections over the past 2 years, prompted by complaints from nearby residents and local officials concerning odors and other unnatural conditions in the creek, have revealed discharges of contaminated process wastes into Faries Park Creek at 3 major discharge points: (1) a large (48" inner diameter) concrete storm sewer located just north of the corn sweetener plant ("Point Source B-1"); (2) a 12" tile located near a now-dismantled wooden cooling tower at the soybean oil refinery ("Point Source B-2"); and (3) an 18" tile located just east of the Company's corporate office parking lot ("Point Source B-4"). The parties have stipulated that, on at least 3 occasions prior to the filing of the Complaint, improper discharges into Faries Park Creek were positively traced to an origin on the Respondent's East Plant property. (Stip. 4).

On July 10, 1978, in response to complaints about septic and odorous conditions in Faries Park Creek from individuals using the Faries Park facilities over the Fourth of July weekend, Agency inspectors (accompanied by officials of the Decatur Park District and the Macon County Health Department) investigated the situation. (Stip. 5). Observations revealed that the stream was septic with black deposits on the bottom, rising gas bubbles, foul odors, and mold growths. Water samples taken near the Respondent's discharge points indicated excessive levels of phosphorus, BOD₅ and suspended solids. (Stip. 6).

On July 27, 1978, Agency employees conducted a follow-up inspection in the East Plant area. While some improvement in the condition of Faries Park Creek was noted, water quality violations still existed. (Stip. 7-8).

On August 8, 1978, the Agency conducted another inspection. Near Lake Decatur, the water quality of the stream was much improved. However, while the north branch of Faries Park Creek appeared noticeably improved, the south branch of the creek was found to be badly polluted. (Stip. 9).

The proposed settlement agreement provides that the Respondent admits the allegations charged in the Complaint (i.e., Counts I through VI inclusive; the parties have requested that Count VII of the Complaint be dismissed without prejudice) and agrees to specified corrective measures to eliminate all environmentally unacceptable discharges. (Stip. 11-13). The Company has indicated that the cost of compliance will be approximately \$100,000.00 . (Stip. 13).

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 Illinois Environmental Protection Act. The Board finds the stipulated agreement acceptable under Procedural Rule 331 and Section 33(c) of the Act. The Board finds that the Respondent, Archer-Daniels-Midland Company, has violated Rules 203(a), 203(c), 203(d), 401(c), 402, 403, 404(f) and 405 of Chapter 3: Water Pollution Control Regulations and Section 12(a) of the Act and orders the Respondent to cease and desist from further violations within 45 days of the date of this Order. Count VII of the Complaint is hereby dismissed without prejudice. The Respondent is ordered to promptly submit an NPDES permit application to the Agency and is directed to follow the compliance program set forth in the Stipulation and Proposal for Settlement. The stipulated penalty of \$5,000.00 is hereby 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, Archer-Daniels-Midland Company, has violated Rules 203(a), 203(c), 203(d), 401(c), 402, 403, 404(f) and 405 of Chapter 3: Water Pollution Control Regulations and Section 12(a) of the Illinois Environmental Protection Act.
2. Count VII of the Complaint is hereby dismissed without prejudice.
3. Within 45 days of the date of this Order, the Respondent shall:
 - (a) cease and desist from further violations;
 - (b) submit an NPDES permit application to the Agency.
4. Within 45 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 \$5,000.00 which is to be sent to:

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

5. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed October 15, 1979, which is incorporated by reference as if fully set forth herein.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 15th day of November, 1979 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board