

ILLINOIS POLLUTION CONTROL BOARD
June 12, 1980

ARMAK COMPANY,)
)
Petitioner,)
)
v.) PCB 79-153
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by D. Satchell):

On April 29, 1980 Armak Company (Armak) filed a petition to vacate the Board's Opinion and Order of March 20, 1980 which affirmed the conditions of NPDES Permit IL 0026069 as written. The Environmental Protection Agency (Agency) has filed no response. The Board acknowledges the testimony of Mr. Bols to the effect that the ditch only drains Armak's property (R.38). However, Armak's exhibits show that the ditch proceeds beyond its property line. The Board acknowledges that the pooling on April 14, 1979 may have resulted from Armak's discharge (Pet. Ex. 10). However, even if the pools resulted only from Armak's discharge, their presence demonstrates that natural runoff through the ditch would likewise pool. Rule 104 of Chapter 3: Water Pollution defines "aquatic life" as "native populations of fish and other aquatic life." The definition clearly includes more than fish. It was incumbent upon Armak to demonstrate through expert testimony, or otherwise, that the ditch was not capable of supporting aquatic life.

Armak has requested clarification of the effect of Rule 401(a) of Chapter 3. The Board agrees that classification as an "industrial ditch" would mean that Armak would not have to maintain the water quality standards in it. However, the Agency may still have authority under Rule 401(a) to designate the tile as the point of discharge for purpose of applying the effluent standards since it is arguably a "point immediately following the final treatment process and before mixture with other waters." Armak does not contend that the ditch is a part of the treatment process. Furthermore, the concentrations entering Aux Sable Creek should be recomputed to correct for any dilution by other drainage entering the ditch. The petition is denied.

IT IS SO ORDERED.

Mr. Goodman dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 12th day of June, 1980 by a vote of 4-1.

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