

ILLINOIS POLLUTION CONTROL BOARD
November 7, 1974

STUDENTS FOR ENVIRONMENTAL CONCERNS,
J.E. DUNWOODY and L.J. STONE,

Complainants,

vs.

WEDRON SILICA DIVISION, DEL MONTE
PROPERTIES COMPANY,

Respondent.

PCB 73-439

Mr. Ben A. Rich, Attorney, on behalf of Complainants;
Mr. Michael T. Regan, Attorney, on behalf of Respondent.

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

On October 16, 1973, Complaint was filed against Wedron Silica, charging therein violation of Sections 12(a) and 12(b) of the Illinois Environmental Protection Act and Rules 404(a), 405 and 903(a) of Chapter 3 of the Pollution Control Board Rules and Regulations.

Respondent owns and operates a silica sand mining and processing facility located near the Fox River in Wedron, County of LaSalle, Illinois. Respondent employs approximately 135 people and has been in operation since 1911.

Complainants charge that from April 1, 1973 to the date of the Complaint, Respondent discharged into the Fox River effluents significantly in excess of the limits imposed by Rules 404(a) and 405. Complainants further charge that Respondent does not hold a permit from the Agency for the discharge of allegedly violative effluent in violation of Section 12(b) of the Act and Rule 903(a).

A public hearing was held in this matter on May 2, 1974. The sole action taken at that hearing was the admission of a Stipulation And Proposal For Settlement agreed to between the parties. The Board found that document unacceptable in that Paragraph 10 of the Proposal For Settlement, wherein the parties agreed that the complaint shall be dismissed should the provisions of the Proposal For Settlement be approved by the Board, misconstrues the legal effect of a Board dismissal. On October 1, 1974, the parties filed an Amended Stipulation which cured that defect. Since the Amended Stipulation contains all of the relevant evidence before the Board, it is set out in full as follows:

AMENDED STIPULATION AND PROPOSAL FOR SETTLEMENT

Now come the complainants, J.E. Dunwoody, L. J. Stone, the Students for Environmental Concerns, and the respondent, Wedron Silica Division, Del Monte Properties Company, and hereby stipulate, for settlement purposes only, pursuant to Rule 333 of the Procedural Rules of the Pollution Control Board, that the following statements and undertakings form the basis of a mutual agreement between the parties relating to the above entitled enforcement action.

STATEMENT OF FACTS

1. That J. E. Dunwoody and L. J. Stone are residents of the State of Illinois, having an interest in the Fox River and its environs, and that the additional complainant, Students for Environmental Concerns, is an organization concerned with the preservation of the environment and having its principal office in Champaign, Illinois.

2. The respondent, Wedron Silica Division, Del Monte Properties Company, owns and operates a silica sand mining and processing plant located near the Fox River in Wedron, Illinois.

This Wedron Facility employs approximately one hundred thirty-five people at said sand plant and the plant has been in continuous operation since approximately 1911.

3. That prior to this time the complainants have filed the above case with the Pollution Control Board of the State of Illinois, which complaint alleges that on or about April 1, 1973, and at various times thereafter, there occurred certain discharges into the Fox River allegedly in violation of the applicable regulations of the Pollution Control Board of the State of Illinois.

4. That these alleged effluents complained of could tend to cause the discharge into the Fox River of fecal coliform and suspended solids. The complainants have caused certain tests and analyses to be run and the results of these tests and analyses indicate that the concentrations of these respective parameters are as follows:

<u>Parameter</u>	<u>Illinois State Limit</u>	<u>Large Orifice</u>	<u>Small Orifice</u>	<u>Small Pipe Orifice</u>
Fecal Coliform	400/ml.	1,700/ml.	0/ml.*	25/ml.*
Suspended Solids	37 mg/l.	90 mg/l.	8 mg/l.*	202 mg/l.*

*Average of 2 samples.

The total flow rate from the combined discharge as well as the flow rate to be apportioned among the three pipes is unknown and unascertainable, for the reason that there have been subsequent modifications in the system, and for the reason that the plant was not in operation at the time that said samples were collected.

5. The three pipes referred to in the testing results are as follows:

(1) -36" concrete pipe. The primary use is to carry water from the old mill drain bins to the river pump sump. Usually four drain bins are pumped full of sand during each shift of mining. During pumping overflow water from the bins flows to the drain. During and after pumping drainage from the bins continues to flow to the drain. This latter flow varies as time passes but never stops even after a weekend.

The indirect cooling water from the Riley boiler stokers and fans also enters this drain. A floor drain in the area of the boiler feed pumps and deaerating heater also discharges into the drain.

At the time of testing the overflow from two septic tanks serving the change house was chlorinated prior to discharge to this drain. This system was installed in 1968 under Permit No. 1968-FA-504 issued by the Sanitary Water Board. This septic flow has been removed from this discharge completely by modifications during the pendency of this proceeding, pursuant to Construction Permit No. 1974-FB-157, obtained from the Environmental Protection Agency.

(2) -8" tile. This drain handles indirect cooling water from the B & W coal stokers and fans. This water is continuous even though the boiler is occasionally shut down on a Sunday. A floor drain in the boiler room area also discharges to this drain but is normally dry.

(3) - 8" tile. The water in this drain comes from a sump pump located in the ash handling elevator pit at the boiler house. Its intermittent operation depends on rainfall, the ground water table, and some water from the boiler ash bins.

Prior to about 1958 all water was discharged directly to the river. At that time the present sump and a pump were installed to pump the effluent directly to a settling pond. Water from this pond flowed directly to the river. In the fall of 1966, the present pump house was installed next to the river sump and the original pump removed. In 1972 and 1973 a fine sand reclaim system was installed to recover sand from the water prior to adding a flocculant and this discharged to a settling pond. Part of the settling pond water is recycled and the balance is allowed to overflow to Buck Creek. This latter system was installed and is operated under Water Pollution Control Permit No. 1973-EB-1419 of the Illinois Environmental Protection Agency.

During the period of time on or about April 1, 1973, the three pipes described above emptied into a sump which is the subject of this proceeding. A pump located in this sump carried the combined discharge into the central treatment facility of the Wedron plant. This pump however had a seal which required water in order to operate. At or about the above described time this water was supplied to the pump seal from the main process water supply of the respondent plant. When the plant was not in production, such as on all Sundays and some Saturdays, this supply of water to the pump seal was not available, and therefore the pump was inoperable.

The testing samples referred to above were taken on a Sunday, at which time the plant was not in process operation and at which time as described above the pump in question did not have a supply of seal water.

This problem has since been remedied by the addition of a separate water supply for the pump seal. As a result the sump pump operates independent of plant production and is thus free to pump on a continual basis.

All parties to this proceeding have agreed that the covenants and agreements contained herein will adequately protect the Fox River and its environs with respect to the discharge in question.

By reason of the facts set out herein the parties are unable to determine or assess the impact on the public resulting from the alleged violation; however, Wedron avers and states that there are no discharges to the Fox River from the aforementioned sump at this time.

WHEREFORE:

1. Wedron agrees to install and construct a system that modifies the existing pumping system which has one 8 inch pumping discharge line, by installing a dual pumping system having two 10 inch discharge lines, in such a manner that either pump be float-controlled and each pump have the individual capacity to transfer the combined effluents to a settling system. This modification removes the existing 8 inch pipeline which was laid on the river bank, by installing the two new 10 inch pipes across a new bridge over the railroad from this location.

The terms of these modifications are contained in engineering drawings, marked Exhibit 1 (composed of 3 pages) attached hereto and made a part hereof. The attached exhibit, part of a Construction Permit Application, was received by the Illinois Environmental Protection Agency March 25, 1974 for their approval.

2. Wedron agrees to rebuild the existing pump house located adjacent to the earlier referenced sump in the following manner: Re-sheet it with a painted metal exterior covering in a color compatible with the surroundings.

3. Wedron agrees to resurface a sump and a pump house base to achieve an appearance compatible with the surroundings.

4. J. E. Dunwoody and L. J. Stone and the Students for Environmental Concerns, complainants herein, recommend that no monetary penalty be assessed by the Board in this proceeding.

5. It is anticipated that the various aspects of the project can be completed within the following guidelines. This time table assumes that the construction permit, which has already been applied for, will be granted, and further assumes that the Board order approving this settlement will be handed down in time sufficient that Wedron will have good construction weather and season available to it for the proposed work.

The installation and connection of the additional pumping pipes and necessary concrete work installations, including the modifications to the pump house, should be completed within two months after clearance for the project by the Board and by the Agency.

The bridge over the railroad tracks and its related structures should be completed within two months after the receipt of the necessary bridge steel,

It is agreed and understood that Wedron faces a potential problem on the delivery date of this bridge steel, but Wedron hereby agrees to exercise good faith efforts to obtain early delivery of bridge steel.

6. The total anticipated cost of the above described modification is approximately one hundred thousand dollars. This sum has already been appropriated for these purposes by the management of Wedron. Approximately thirty thousand dollars of the above mentioned sum is allocated to the structures immediately adjacent to the river, these being the pump, the sump, the pump house improvements and the elimination of the 8 inch pipe.

7. Wedron agrees that it shall post a performance bond in the amount of twenty-five thousand dollars running to the State of Illinois to insure its compliance with this proposed settlement stipulation, in the event that this stipulation should be approved by the Board.

8. The Pollution Control Board shall retain continuing jurisdiction of all matters arising out of this stipulation.

9. Either party shall have the right to appeal from any decisions of the Pollution Control Board so arising in which the provisions of the Environmental Protection Act shall govern.

10. Should the Pollution Control Board fail to approve all of the terms of this stipulation, the stipulation shall be held for naught and no admissions or allegations shall prejudice any party in the hearing and decisions of the case; provided, however, that this agreement shall not self-destruct in the event that the only modification made by the Pollution Control Board with respect to this settlement agreement would be a change in the monetary amount of the aforementioned performance bond.

Dated at Ottawa, Illinois this 24th day of September, A.D. 1974.

We note that nowhere in the Stipulation does Respondent admit violation; nor can violation be found from the facts stated. Since a violation cannot be found, a penalty cannot be assessed. However, the parties are agreed that the proposal for settlement will adequately protect the Fox River and its environs with respect to the alleged discharges, and there are no further discharges from the sump.

We are disposed to accept the settlement proposal. Respondent has committed itself to a \$100,000.00 program of improvements. The necessity for Agency permits and the \$25,000.00 performance bond will provide sufficient safeguards to insure that Respondent's operation will be in compliance. Complete compliance by Respondent is expected according to the time-frame of Paragraph 5 of the Proposal For Settlement; in no event shall actual compliance be achieved later than one year from the date of this Opinion.

This Opinion constitutes the findings of fact and conclusions of law of the Board.

IT IS THE ORDER of the Pollution Control Board that:

1. Respondent shall comply with the agreements stated in the Proposal For Settlement portion of the above Stipulation And Proposal For Settlement.

2. Respondent shall notify the Agency of any anticipated delays in its project completion schedule.

3. Respondent shall, within 35 days from the date of this Order, post a performance bond in a form satisfactory to the Agency in the amount of \$25,000.00, guaranteeing compliance with the orders herein provided.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on this 7th day of November, 1974 by a vote of 4-0.


