

ILLINOIS POLLUTION CONTROL BOARD
June 7, 1973

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 72-269
)
 CHICAGO & EASTERN ILLINOIS RAIL-)
 ROAD COMPANY, a corporation,)
)
 Respondent.)

Douglas T. Moring, Assistant Attorney General, on behalf of
Complainant;
Patrick C. Mullen on behalf of Respondent.

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

This is a complaint brought by the Environmental Protection Agency (hereinafter referred to as Agency) against the Chicago & Eastern Illinois Railroad Company, a corporation, (hereinafter referred to as Respondent).

The complaint charges the Respondent with numerous violations of Sections 12(a) and (d) of the Environmental Protection Act (hereinafter referred to as Act) and of Rule 403 and 601(b), Chapter 3 of the Illinois Pollution Control Board (hereinafter referred to as Rules). Other violations charged were of Rule 10(c) and of Rule 1.03 of SWB-15 and continued in effect by Section 49(c) of the Act.

Respondent operates a railroad yard and diesel servicing facility in Dolton, County of Cook, Illinois. Specifically, it is charged that Respondent discharged diesel oil into a storm sewer which in turn discharged the oil into the Little Calumet River; deposited diesel oil upon its land in such a manner as to create a water pollution hazard; discharged diesel oil as an effluent into the Little Calumet River; failed to take reasonable measures to prevent the spillage of diesel oil from causing water pollution; failed to provide facilities for the treatment of industrial wastes; and allowed the soil and surface at its facility to become so saturated with diesel oil as to cause a continuing water pollution hazard from rain water runoff.

The violations of both the Act and Rules and Regulations controlling the discharge of debris, oil, grease, scum or sludge solids spans a period of time between July, 1970 and June, 1972 (See Exhibit A).

A Stipulation was filed between the Respondent and the Complainant which stipulates to the facts of the complaint, Exhibit A and to the pictures and evidence contained in Exhibit B. Let the Board now indicate that the chronicle of evidence presented by Agency Engineer Lawrence E. Ziemba in Exhibit B represents one of the Agency's best efforts.

The Stipulation attempts to mitigate Respondent's violations by showing prosecutions and convictions by other governmental agencies and by a showing of the expenditure of approximately Two Hundred Thousand Dollars (\$200,000) for the installation of control devices.

We are always impressed with a program of compliance and indeed the expenditure of the monies aforementioned to suggest that the Respondent is making a good effort toward averting further violations and this persuades us to impose a lesser penalty than would otherwise prevail.

We are not impressed as mitigation that both the United States Government and the Metropolitan Sanitary District of Greater Chicago have either assessed fines, injunctions, or water pollution abatement programs against the Respondent prior to our decision.

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

IT IS THE ORDER of the Pollution Control Board that the Respondent, Chicago & Eastern Illinois Railroad Company, a corporation:

1. Cease and desist from the continuation of the aforesaid violations;

2. Excavate its facility, provide dikes, clean existing storm sewers, and submit its water pollution abatement program to the Agency for its approval within 35 days from the date of the entry of this Order.

3. Chicago and Eastern Illinois Railroad Company shall pay to the State of Illinois the sum of \$5,000 within 35 days of the date of this Order. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 7th day of August, 1973, by a vote of 4 to 0.

Christan L. Moffett