

ILLINOIS POLLUTION CONTROL BOARD
August 5, 1971

HENRY HANNAH)
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 v.) # 71-123
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 MINNESOTA PAINTS, INC.)

Henry Hannah, pro se.
David DeDoncker of E. Moline for Minnesota Paints, Inc.

Opinion and Order of the Board (by Mr. Currie):

This case was commenced by citizen complaint. On the eve of hearing we received a proposed consent order agreed to by both parties. In accord with our rules, the agreement contains a full statement of the relevant facts, obviating the need for an expensive and time-consuming hearing or for our wading through a lengthy transcript. The agreement also details a number of remedial measures already taken by the company to prevent any recurrence of the accident, as well as provisions for a corrective order and for a small penalty.

On examining the stipulated facts we think the agreed order entirely appropriate. The settlement agreement, containing both the stipulation of facts and the consent order, is hereby adopted as the findings of fact, conclusions of law, and order of the Board. Proof of payment of the penalty shall be made to the Board.

We commend the parties for this exemplary settlement. Cases such as this demonstrate the utility of the citizen-complaint provision of the statute.

SETTLEMENT AGREEMENT

Complainant, HENRY HANNAH, and Respondent, MINNESOTA PAINTS, INC., stipulate and agree to the following facts, to wit:

1. That, on or about May 7, 1971, a resin storage tank in the Respondent's plant located at 2500 Eighth Avenue, East Moline, Illinois, which was being filled from a tank truck, overflowed spilling resin onto the plant floor and into floor drains. The resin then went into a catch basin located on the plant property. From the catch basin it went into the storm sewer located in 8th Avenue, East Moline, Illinois. It traveled about 2500 feet and emptied into an open drainage ditch parallel to 19th Street, East Moline, Illinois. The drainage ditch empties into Honey (or Sugar) Creek about four blocks away. A map is

herein attached as Exhibit "A" showing the route of the discharge.

2. That the spillage was completely accidental and occurred for the following reasons:

(a) Faulty gauge. The gauge showed the storage tank to be almost empty so that it could easily accommodate the entire truckload of resin. However, the gauge was working improperly and the storage tank was unable to accommodate the load and the overflow resulted.

(b) Employee Absence. The employee who was stationed at the storage tank to supervise its filling left his post for his lunch hour, while the pumps were still working. Relying on the gauge, the employee assumed that the tank could be filled, without incidence, while he took his scheduled lunch break. As a result, the employee was not present to shut the pumps off when the spillage occurred.

(c) Plant design. Several open floor drains, installed by the previous plant owners, allowed the resin overflow to escape through the catch basin, which trapped some of the spillage, into the storm sewer, the drainage ditch and eventually into the creek.

3. That a number of minnows (2" - 4") in Honey Creek were killed by the accidental discharge of the resin; the number believed to be about 247 as counted by a Mr. David Goldsberry who resides in the vicinity of the creek.

4. That this is the first such incident which has occurred during the three (3) year period in which the Respondent has owned and occupied the business premises at the above-mentioned address.

5. That, on July 12, 1971, the drainage ditch and Honey Creek were walked and visibly inspected from the point of discharge at the drainage ditch to the end, and no visible residue was seen nor was any damage to aquatic life observed or found.

6. That water samples were taken on July 12, 1971, at the following three (3) locations: At the catch basin located at Respondent's property; at the drainage ditch both above and below the point where the sanitary sewer discharges. These samples were analyzed by the East Moline Water Department on July 14, 1971, which showed that no trace of resin remained in the creek. The results of the tests are attached herein as Exhibit "B".

7. That the Respondent has taken the following actions to prevent the recurrence of the above-described incident:

(a) The faulty gauge has been repaired at a cost of approximately \$2500.00 and in the future all gauges will be inspected annually.

(b) Employees whose duty it is to supervise the filling of resin storage tanks will be required to remain on duty during the pumping operation and will not be allowed to leave their posts at anytime during said operation. Signs have been posted to this effect.

(c) The open floor drains have been closed. This improvement will prevent any type of spillage from reaching the storm drains.

(d) Two dikes have been built across the doorways to the tank storage room so that any accident spillage will be confined to that room.

(e) The catch basin has been cleaned and will be cleaned every month to prevent any stoppage or collection of waste that could create a pollution hazard.

CONSENT ORDER

In consideration of the above, Complainant, HENRY HANNAH, and Respondent, MINNESOTA PAINTS, INC., stipulate and agree to the following conditions of settlement to be approved by the Pollution Control Board, to-wit:

1. That, on or about May 7, 1971, Respondent accidentally discharged toxic resins into the waters of Honey Creek in Rock Island County, Illinois, which may have resulted in a violation of Section 12 (a) of the Environmental Protection Act.

2. That Respondent agrees to pay \$100.00 to the Illinois Department of Conservation for the reasonable value of the minnows killed by the accidental discharge. Said payment will be made within a reasonable time after the approval of this consent order by the Board.

3. That Respondent by this Agreement is not foreclosed from challenging the propriety of any future order entered by the Pollution Control Board, nor is this agreement to be considered a waiver of any and all defenses available to Respondent in the event this agreement is not approved by the Board.

4. MINNESOTA PAINTS, INC. covenants and agrees to refrain from any future polluttional discharges and to implement, control and carryout the aforementioned procedures to insure the prevention of any future accidental polluttional discharges.

We consent to the entry of the foregoing Settlement Agreement and Consent Order.

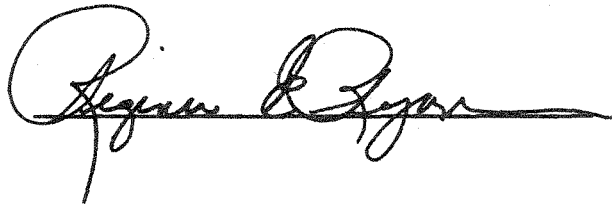
COMPLAINANT, HENRY HANNAH

By: _____

RESPONDENT, MINNESOTA PAINTS, INC.

By: _____

I, Regina E. Ryan, Clerk of the Pollution Control Board, certify that the Board adopted the above Opinion and Order this 5th day of August, 1971.

A handwritten signature in cursive script, appearing to read "Regina E. Ryan", written over a horizontal line.