

ILLINOIS POLLUTION CONTROL BOARD
October 14, 1982

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY,)
)
Complainant,)
)
v.) PCB 81-179
)
NAUVOO MILK PRODUCTS, INC.,)
)
Respondent.)

GWENDOLYN W. KLINGLER, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

JOHN T. ROBERTSON, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board on the November 6, 1981 Complaint brought by the Illinois Environmental Protection Agency ("Agency").

Count I of the Complaint alleged that, from August 11, 1980 until October 31, 1980, the Respondent, Nauvoo Milk Products, Inc. ("Nauvoo"), deposited unknown quantities of liquid cheese whey at the head of a channelized intermittent stream located on a farm in Hancock County, Illinois which subsequently drained into the North Branch of Larry Creek and Larry Creek creating a water pollution hazard in violation of Section 12(d) of the Illinois Environmental Protection Act ("Act").

Count II alleged that Nauvoo's discharge of a contaminant (i.e., liquid cheese whey) from a point source into the North Branch of Larry Creek without an NPDES Permit was in violation of Section 12(f) of the Act.

Count III alleged that the discharging of such contaminants into Illinois waters resulted in the lowering of dissolved oxygen levels in the North Branch of Larry Creek and Larry Creek to below 5.0 mg/l in violation of Rules 203(d) and 402 of Chapter 3: Water Pollution Regulations ("Chapter 3") and Section 12(a) of the Act.

Count IV alleged that the discharge of liquid cheese whey caused unnatural bottom deposits, sulphide odor, foam, scum, and unnatural turbidity in both the North Branch of Larry Creek and Larry Creek in violation of Rules 203(a) and 402 of Chapter 3 and Section 12(a) of the Act.

A hearing was held on September 14, 1982. The parties filed a Stipulation and Proposal for Settlement on September 21, 1982.

The Respondent, an Illinois corporation located in Nauvoo, Hancock County, Illinois, is in the business of producing blue cheese. Liquid cheese whey is a by-product of Nauvoo's manufacturing process. (Stip. 2).

The proposed settlement agreement provides that the Respondent admits the violations alleged in the Complaint and agrees to: (1) cease and desist from further violations; (2) develop contingency plans for the handling of large quantities of liquid cheese whey in the event of equipment breakdown and submit the plans to the Agency within 90 days of the date of the Board's Order in this proceeding; (3) submit a completed Permit Application for Land Application of Sludge to the Agency within 90 days of the date of the Board's Order in this case; and (4) pay a stipulated penalty of \$3,500.00. (Stip. 7-8).

In evaluating this enforcement action and proposed settlement agreement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act and finds the settlement agreement acceptable under Procedural Rule 331. There appears to be no question that the violations did, in fact, occur and stream samples taken on October 31, 1980 serve to confirm the reduction of dissolved oxygen levels in both the North Branch of Larry Creek and Larry Creek itself. (Stip. 4-5). The Board finds that the Respondent, Nauvoo Milk Products, Inc., has violated Rules 203(a), 203(d), and 402 of Chapter 3 and Sections 12(a), 12(d), and 12(f) of the Act. The Respondent will be ordered to cease and desist from further violations; follow the compliance plan and schedule set forth in the Stipulation; and to pay the stipulated penalty of \$3,500.00.

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, Nauvoo Milk Products, Inc., has violated Rules 203(a), 203(d), and 402 of Chapter 3: Water Pollution Control Regulations and Sections 12(a), 12(d), and 12(f) of the Illinois Environmental Protection Act.

2. The Respondent shall cease and desist from further violations.

3. Within 60 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 \$3,500.00 which is to be sent to:

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

4. The Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed on September 21, 1982, which is incorporated by reference as if fully set forth herein.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order were adopted on the 14th day of October, 1982 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board