

ILLINOIS POLLUTION CONTROL BOARD  
July 10, 1980

ILLINOIS ENVIRONMENTAL PROTECTION )  
AGENCY, )  
 )  
Complainant, )  
 )  
v. ) PCB 78-233  
 )  
GRANITE CITY STEEL, DIVISION OF )  
NATIONAL STEEL CORPORATION, )  
 )  
Respondent. )

PATRICK CHESLEY, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT.

RANDALL ROBERTSON, ESQUIRE (LUEDERS, ROBERTSON & KONZEN) APPEARED ON BEHALF OF RESPONDENT.

OPINION OF THE BOARD (by I. Goodman):

This Opinion supports the Board Order herein of June 12, 1980.

On August 28, 1978 the Illinois Environmental Protection Agency (Agency) filed a complaint with the Board alleging that Granite City Steel (GCS) was violating Section 9(a) of the Illinois Environmental Protection Act (Act) by causing or allowing white ash to be emitted from its sinter plant. On July 20, 1979 a Stipulation and Proposal for Settlement (Stipulation) by the parties was submitted to the Board. The Board's interim order of August 23, 1979 rejected the Stipulation on the ground that the contingent penalty therein did not aid in the enforcement of the Act or induce compliance with regulations in that it was designed solely to expedite private claims, an area over which the Board did not wish to extend its authority.

At a public hearing on February 27, 1980 the parties hereto submitted an amended Stipulation concerning which citizens offered testimony. At that hearing the hearing officer, after allowing oral argument, denied a motion to intervene by Mrs. Florence Farmer. That motion has been referred to the Board along with this case.

The amended Stipulation acknowledges that white ash falling from the air is causing injury to property and unreasonably interferes with the enjoyment of life in the area. The Agency will stipulate that GCS's sinter plant is causing the problem, but GCS will not. GCS, nevertheless, agrees to pay a penalty of

\$10,000 and to institute an emission control program which calls for the replacement of the old baghouse on its sinter plant with a new one. The Agency believes that the program if followed will eliminate the white ash problem.

The Board finds that the amended Stipulation satisfies the requirements of Procedural Rule 331 and that the stipulated penalty of \$10,000 is necessary for the enforcement of the Act.

The Board affirms the hearing officer's order to deny Mrs. Florence Farmer's motion to intervene. Procedural Rule 310(a) requires that petitions for intervention be made "[u]pon timely written application and subject to the necessity for conducting an orderly and expeditious hearing ..." [Emphasis added.] Rule 310(b) requires that copies of petitions for intervention be filed with the Board and each party within 48 hours prior to the hearing. The Board received the petition for intervention more than one week after the third and last hearing in the matter; therefore, the petition is untimely. For the hearing officer to have allowed intervention may have necessitated additional hearings in the matter when the record had then been complete. Furthermore, the petition to intervene declares that Mrs. Farmer was one of the complainants causing the Agency to institute this enforcement action. The Board notes that disallowing the petition does not affect the jurisdiction of other tribunals regarding claims of damage to Petitioner's property, etc.

The Board accepts the amended Stipulation as presented at the hearing of February 27, 1980 and incorporates the document by reference as if fully set forth herein.

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

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion was adopted on the 5-0 10<sup>th</sup> day of July, 1980 by a vote of

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board