

ILLINOIS POLLUTION CONTROL BOARD
November 21, 1984

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 83-22
)
STANDARD SCRAP METAL CO.,)
)
Respondent.)

INTERIM ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board upon a complaint filed on February 23, 1983 by the Illinois Environmental Protection Agency (Agency) against the Respondent, Standard Scrap Metal Co. (Standard Scrap). The Complaint alleges that the Respondent violated Sections 9(a), 9(b), and 9(c) of the Environmental Protection Act (Ill. Rev. Stat. 1983, ch. 111½, pars. 1009) (hereinafter "Act"), and Rules 103, 105, 202, 203 and 502 of Chapter 2: Air Pollution of the Board's regulations.* Hearing was held on February 29, 1984; no members of the general public were present. At the outset, the parties presented a Stipulation of Facts and a Proposal for Partial Settlement. The settlement agreement was conditioned upon the Board's accepting the terms of settlement, of which there are three, entirely. According to the Respondent, the testimony and exhibits offered during the remainder of the hearing was for the purpose of mitigating any penalty imposed based on the "economic reasonableness of compliance and the financial ability of the company." (R. 12).

In the partial settlement agreement, the parties also reserved "the right to have a full evidentiary hearing on all matters not agreed to in this partial settlement, particularly on what amount of penalty, if any, that the Board should impose on Standard Scrap."

Nowhere in the Board's procedural rules is it provided that the parties may by stipulation or otherwise, reserve a prior right to an "evidentiary hearing" on matters left to Board determination when one or more parties might disagree with that determination. This approach is unacceptable, in that the power

*Chapter 2 has been codified since this Complaint was filed. For convenience the former numbering system is used in this Order.

of the Board to determine the finality of its own decisions is delegated to the parties. Of course, the usual methods of appeal, such as motions for reconsideration and appeals to the appellate court, are available to both parties.


Additionally, the Board finds that the partial settlement is insufficient and vague as to what other matters besides the penalty "not agreed to" are left for Board determination.

Given these circumstances, the Board rejects the stipulation of Facts and a Proposal for Partial Settlement and orders this case to hearing within 45 days of the date of this order unless the parties, within 15 days of the date of this Order, request the Board to determine the case based on the merits as contained in the record presently before it.

Board Member J. Theodore Meyer dissented.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Order was adopted on the 21st day of November, 1984 by a vote of 4-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board