

ILLINOIS POLLUTION CONTROL BOARD
September 24, 1981

ILLINOIS ENVIRONMENTAL PROTECTION)
AGENCY AND COOK COUNTY DEPARTMENT OF)
ENVIRONMENTAL CONTROL,)
)
Complainants,)
)
v.) PCB 74-234
)
AMERICAN BRICK COMPANY,)
an Illinois Corporation,)
)
Respondent.)

DENNIS R. FIELDS, SPECIAL ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY.

MELVYN RIEFF, ASSISTANT STATE'S ATTORNEY, APPEARED ON BEHALF OF THE COOK COUNTY DEPARTMENT OF ENVIRONMENTAL CONTROL.

EDWARD M. WHITE, CAREY, FILTER & WHITE APPEARED ON BEHALF OF AMERICAN BRICK COMPANY.

OPINION AND ORDER OF THE BOARD (by I. Goodman):

On July 19, 1974 the Illinois Environmental Protection Agency (Agency) and Cook County Department of Environmental Control (Department) filed a complaint before the Board alleging that the Respondent violated Sections 9(a) and (b) of the Environmental Protection Act (Act) as well as Rules 103(b)(2) and 202(b) of the Board's Chapter 2: Air Pollution Control Regulations. The complaint was amended later to allege additional violation of Rule 203(a) of Chapter 2. Several continuances were granted to allow for necessary testing and for discovery.

On January 9, 1979 the Board granted the Complainants' motion to stay the proceedings when it was informed that the United States of America had filed a complaint against American Brick in the United States District Court for the Northern District of Illinois. On August 1, 1980 the USA and American Brick entered into a consent decree. On February 3, 1981 a hearing was held at which the Agency and American Brick submitted a Settlement Agreement and Stipulation to Dismiss (Stipulation). An executed copy of that Agreement was received by the Board on July 16, 1981.

American Brick processes clay into brick at its Dolton plant. Blue clay is mined on the 60 acre site and transported to the plant where it is molded and cut. The bricks are then dried and

eventually formed into a scove kiln composed of 1.5 million bricks, that is 40 feet wide, 120 feet long, and 25 feet high. Gas-fired burners located beneath the pile burn the bricks for 55 to 60 hours. Approximately 25 to 30 of these kilns are produced annually. The burning process emits particulate matter, sulfur dioxide, fluoride and sulfuric acid into the ambient air.

The Stipulation is intended to be consistent with the consent decree entered in the federal court (Stip. 5). The Stipulation sets forth a schedule for pilot testing and compliance. Emission standards consistent with Board regulations are prescribed for particulate matter (22.8 pounds per hour), sulfur dioxide (2000 parts per million), visible emissions (30% opacity) and fugitive emissions (30% opacity). Performance tests demonstrating compliance with these standards are required (Stip. 7-9). By September 5, 1982 Respondent must install opacity and sulfur dioxide monitors. Monitoring reports are to be submitted quarterly thereafter. Progress reports described in the Stipulation are also scheduled for submittal (Stip. 10-12).

Cessation of operations relieves the Respondent of its testing, emission, and monitoring requirements; however, resumption of operations reinstates the obligations and does not suspend or postpone the completion of originally scheduled steps toward compliance. The Stipulation terminates December 31, 1983. Any extension of time agreed upon by USEPA and the Respondent or ordered by the U.S. District Court, however, correspondingly extends the time periods for performance in the Stipulation (Stip. 14).

The Stipulation does not affect the Respondent's responsibility to comply with any requirement of Illinois law or regulation as currently constituted or as they may be revised, including emission limitations. Defendant's obligation to comply with any other state, federal or local regulation is not covered by the Stipulation (Stip. 15). The Stipulation dismisses the complaint and amendments with prejudice for the periods specified in the pleadings up to the date of this Opinion and Order (Stip. 2-3).

Any modification of the consent decree by the U.S. District Court effects a "consistent modification" of the Stipulation and any Board order herein that supports the Stipulation (Stip. 15). The use of the term "consistent" rather than "identical" or the previously used "corresponding" (Stip. 14) leads the Board to hold that only modifications of the consent decree that are consistent with Board regulations and other Illinois law are intended by the parties to be automatic modifications of the Stipulation. Furthermore, the preceding paragraph in the Stipulation upholds the enforcement of Illinois law against the Respondent.

The Board finds that the Stipulation is a reasonable resolution of this matter which will protect the interests of the State without further litigation on the part of the parties

herein. The Board will accept the Stipulation pursuant to Procedural Rule 331 and will order the parties to execute their duties in accordance therewith. PCB 74-234 will be dismissed in consideration of the execution of those duties.

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

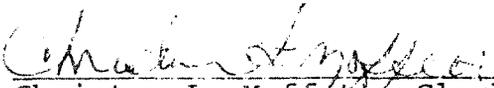
ORDER

1. Respondent, American Brick Company, and Complainants Illinois Environmental Protection Agency and Cook County Department of Environmental Control shall execute their duties as set forth in the Settlement and Stipulation to Dismiss filed July 16, 1981 which is hereby incorporated by reference as if fully set forth herein.

2. The complaint and amended complaint in PCB 74-234 are hereby dismissed with prejudice.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 27th day of September, 1981 by a vote of 7-0.


 Christan L. Moffett, Clerk
 Illinois Pollution Control Board