

ILLINOIS POLLUTION CONTROL BOARD
November 30, 1978

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 77-287
)
INDUSTRIAL COATING INC.,)
)
 Respondent.)

MR. DEAN HANSELL, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT:

MR. JAMES G. O'DONOHUE APPEARED ON BEHALF OF RESPONDENT.

INTERIM ORDER OF THE BOARD (by Mr. Dumelle):

The Complaint in this case alleges that Respondent violated Rule 103(b)(2) of the Board's Air Pollution Control Regulations by conducting a protective coating operation without an operating permit. A hearing was held on October 13, 1978 at the Board's Chicago office. No members of the public were present.

At the hearing the parties offered a Stipulation and Proposal for Settlement to resolve this case. The stipulation recites the history of discovery and states that Respondent's used less than 5000 gallons of paint per year. Consequently, Respondent does not need an operating permit for its painting operations. Since there was some delay in responding to Complainant's discovery requests to substantiate this exemption, Respondent agrees to compensate Complainant for costs incurred in compelling this discovery. Although not alleged in the Complaint, Respondent admits to a violation of Rule 103 of the Board's Air Pollution Control Regulations for failure to obtain an operating permit for its sand blasting operation.

In settlement, Respondent proposes to pay \$90.00 to Complainant as costs and to initiate a compliance program.

The Board finds that the Stipulation and Proposal for Settlement is inadequate. It does not support the allegations of the Complaint. It would be inappropriate for the Board to base its final Order in this case on a violation which was never alleged.

Consequently, this case is hereby remanded to the parties and the Hearing Officer for the development of a record which is more internally consistent.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Order was adopted on the 30th day of November, 1978 by a vote of 5-0.

Christan L. Moffett

Christan L. Moffett, Clerk
Illinois Pollution Control Board