

ILLINOIS POLLUTION CONTROL BOARD
June 22, 1978

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 76-322
)
NAVAJO FREIGHT LINES, INC.,)
a New Mexico corporation,)
)
 Respondent.)

George Grumley, Spivack & Lasky, appeared on behalf of Respondent.

OPINION AND ORDER OF THE BOARD (by Mr. Young):

This matter is before the Board on a Complaint by the People of the State of Illinois against Navajo Freight Lines, Inc. (Navajo) for causing or allowing an organic chemical known as phorate to be released causing air pollution as defined by Section 3(b) and in violation of Section 9(a) of the Environmental Protection Act. The original Complaint, which listed Navajo and American Cyanamid Corporation as Respondents, was amended on January 13, 1977, naming Navajo, Aceto Chemical Co. (Aceto) and Leyden Custom Expediter's, Inc. (Leyden) as Respondents. On February 2, 1977, the Board accepted the Amended Complaint and granted Complainant's Motion of January 12, 1977, dismissing American Cyanamid as a party Respondent. Subsequently, Aceto and Leyden were dismissed as parties by the Board on June 28, 1977, on the Complainant's Motion of June 3, 1977.

Hearing was held in Chicago, Illinois, on February 7, 1978, at which time a Stipulation and Proposed Settlement was entered into the record. No members of the public were present at the hearing.

In the Stipulation, Respondent admits causing or allowing air pollution in violation of Section 9(a) of the Act arising out of the transportation of 72 drums of phorate by the Respondent. Prior to entry into Chicago, Respondent admits that the vehicle containing the phorate

was in an accident near Berwick, Pennsylvania, on December 12, 1976. Thereafter, the phorate shipment was examined and transferred to another Navajo trailer which proceeded to Chicago. Upon delivery to the Navajo Terminal in Chicago at 24th and Woods Streets on December 16, 1976, Respondent admits that phorate liquid leaked from the drums exposing Respondent's employees to the phorate liquid and fumes causing certain employees to be hospitalized for observation. While Navajo states it is without knowledge as to the precise cause of the leaks, Respondent admits that phorate commenced leaking while in its control (Stip. p2, 3).

In view of these admissions, the Board finds Navajo in violation of Section 9(a) of the Act, and will thereby accept the Stipulation and Proposed Settlement of the parties in its entirety which the Board finds to be in accordance with Procedural Rule 331. The parties stipulate to payment of \$3,000.00 as a civil penalty for the violations alleged. The Board has considered the Section 33(c) factors in assessing a penalty for this violation of the Act. In view of the substantial risk to public health, it is neither impractical nor unreasonable for Respondent to inspect and to control leaks and fugitive emissions from shipments of hazardous materials within its control. EPA v. Chicago & North Western Transportation Company, et al, PCB 76-155, June 8, 1978. The Board will thereby assess the stipulated penalty of \$3,000.00.

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

ORDER

1. Respondent, Navajo Freight Lines, Inc., is found to have violated Section 9(a) of the Environmental Protection Act.

2. Navajo Freight Lines, Inc. shall pay a penalty of \$3,000.00 for the violation of the Act found herein. Penalty payment by certified cashiers check payable to the State of Illinois shall be made within thirty (30) days of the date of this Order to: Illinois Attorney General, Environmental Control Division, 188 West Randolph Street, Suite 2315, Chicago, Illinois, 60601.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 21st day of June, 1978 by a vote of 50.


Christan L. Moffett, Clerk
Illinois Pollution Control Board