

ILLINOIS POLLUTION CONTROL BOARD
June 3 , 1976

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-385
)
 MIDWEST METALS, INC.,)
)
 Respondent.)

Mr. Fred Benson, Assistant Attorney General, appeared on behalf of complainant.

Mr. C. Dana Eastman, Jr. appeared on behalf of respondent.

OPINION AND ORDER OF THE BOARD (by Dr. Satchell):

This case has come before the Board upon a complaint filed on October 8, 1975 by the Environmental Protection Agency alleging a violation of Rule 103(a) of the Air Regulations and Section 9(b) of the Environmental Protection Act (Act) by Midwest Metals, Inc. (Midwest) by constructing its emission source without an appropriate Construction Permit having been issued by the Agency and a violation of Rule 103(b)(1) of the Air Regulations by operating its emission source without appropriate Operating Permit having been issued by the Agency, on each day of operation, including but not limited to January 24, 1975, February 4, 1975, February 11, 1975 and May 16, 1975.

At a hearing held at East Alton, Illinois on January 27, 1976 a Stipulation of Fact and a Settlement Proposal was presented. On March 1, 1976 a motion was made by Respondent to set aside the stipulated agreement because of a misunderstanding concerning the issuance of an operating permit. This motion was granted by the Board on March 11, 1976.

On April 2, 1976 a second hearing was held. At this time a new Stipulation of Facts and Settlement Proposal was presented for the Board's consideration. In addition Albert B. Baker, President and principal shareholder of Midwest Metals, Inc., testified that at 8:00 a.m. on March 16, 1976 a fire completely destroyed the plant (R.5). At the time of the hearing the company had ceased operations. Mr. Baker stated that he was aware that if he rebuilt the facility that construction permits would have to be obtained (R.6,7).

The Stipulated Facts and Proposal are as follows. Respondent was organized on November 15, 1974 for the general purpose of reclaiming copper from insulated copper wire. The facility is located in East Alton, Illinois. The area is of mixed usage. There are residential, commercial and industrial establishments in the area. Respondent estimates that within a one-quarter mile radius from its facility, there are approximately 25 to 50 residences, with the closest being eight hundred feet away. Respondent also estimates that most, if not all, of said residences were so located prior to the construction of Respondent's facility.

Respondent's facility is capable of processing 300 pounds of insulated copper wire per hour. Since its inception Respondent has processed 300,000 pounds of copper wire. This reclaimed copper is sold to Olin Corporation and similar industries. The facility also produces four by-products. Three of those by-products which include pure asphalt, primary oil and secondary oil, are saleable but are not presently being sold because the quantities produced are not sufficient. The fourth by-product, carbon, is not saleable and is being disposed of at a landfill licensed by the Agency.

Respondent employs ten persons at a weekly payroll of approximately \$1,300. As of December 15, 1975 Respondent had gross revenues of \$18,000 and gross expenses of \$45,000. As of the same dates, Respondent had no retained earnings, total assets of \$100,000 and total liabilities of \$75,000.

Respondent admits all the allegations contained in the Complaint with the exception of Paragraph 7, which lists six contaminants that the facility is allegedly capable of emitting. Respondent does admit its facility emits sulfur dioxide, carbon monoxide, nitrogen dioxide, hydrocarbons and water vapor. From November 15, 1974 through February 1975, Respondent designed, constructed and tested its equipment. On January 24, 1975, approximately ten complaints were received by the East Alton police and fire departments pertaining to fumes emitted from Respondent's operation. Complaints were again received on February 4, 1975. Respondent asserts that since reconditioning and restructuring its process it has received only one complaint in early summer pertaining to odor. That complaint was voluntarily withdrawn. Complainant is not aware of any complaints after those made in January and February of 1975.

Respondent was not aware until he was informed by Complainant that he needed a construction permit in Illinois and therefore had not sought one. Respondent was first informed of the possible violation on February 4, 1975. Respondent also received permit application forms in a letter dated February 5, 1975. After an inspection on May 11, 1975 Respondent was again informed of the violations. Respondent's President stated he had sent the forms in February. The Agency had no record of them. On May 20, 1975 Mr. Baker told the investigator he would have the emissions tested and apply for a permit. Respondent filed a variance petition on June 4, 1975 which was denied October 30, 1975. A permit application was filed by Respondent on October 15, 1975. After updated information was furnished on December 15, 1975 a permit was issued by the Agency for Respondent's facility on February 4, 1976. Respondent admits it continued to operate its facility while it was seeking to acquire a permit.

Respondent acknowledges that it was technologically practicable and economically reasonable to procure a permit. For the said violations Respondent agrees to pay a penalty of \$1,500.

The Board finds the Stipulation of Facts and Settlement Proposal acceptable under Procedural Rule 333. The Board finds that Respondent was in violation of Rules 103(a) and 103(b)(1) of the Air Regulations and of Section 9(b) of the Act. A penalty of \$1,500 is assessed as stipulated.

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


ORDER

It is the order of the Pollution Control Board that:

1. Midwest Metals, Inc. was in violation of Air Regulations 103(a) and 103(b)(1) and of Section 9(b) of the Act.
2. Midwest Metals, Inc. shall pay a penalty of \$1,500 within 90 days of this order. Payment shall be by certified check or money order payable to:

State of Illinois
Fiscal Services Division
Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62706

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 3rd day of June, 1976 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board