

ILLINOIS POLLUTION CONTROL BOARD
March 11, 1976

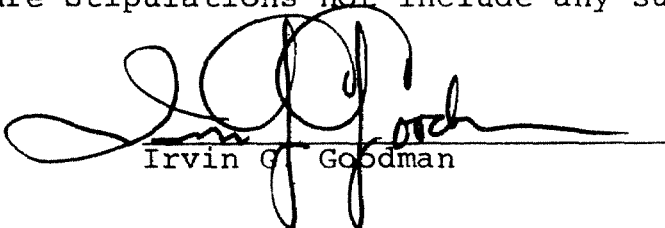
ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 75-34
)
)
 PETTIBONE CORPORATION, a)
 Delaware corporation,)
)
 Respondent.)

Ms. Mary C. Schlott, Assistant Attorney General, Attorney for Complainant.
Mr. Robert H. Joyce, Seyfarth, Shaw, Fairweather & Geraldson, Attorney for Respondent.

CONCURRING OPINION (by Mr. Goodman);

Although I reluctantly agree with the final disposition of this case in accordance with the Order of the Board today, one of the provisions of the Stipulation and Proposal For Settlement which formed the basis of today's Order requires comment.

Paragraph h of the Stipulation is apparently a limited variance granted by the Agency to Pettibone with respect to emissions from their electric arc furnaces during the term of the compliance section of the Stipulation. Although I believe there is a very definite question as to whether the Agency may make such a covenant, I do not believe that such a promise has any place in a Stipulation presented to the Board for ratification. In any event, although this particular paragraph probably does not go beyond what is a matter of fact, it is nevertheless a disturbing move by an Agency charged with the duty of enforcement of the Environmental Protection Act and the Rules and Regulations promulgated thereunder. Certainly any liberalization of such a clause would be cause for rejection of the Stipulation, and I would prefer that future Stipulations not include any such "variance" by the Agency.


Irvin G. Goodman

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Concurring Opinion was submitted on the 15th day of March, 1976.



Christan L. Moffett, Clerk
Illinois Pollution Control Board