

ILLINOIS POLLUTION CONTROL BOARD
May 17, 1973

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 72-470
)
 CHICAGO MAGNESIUM CASTING COMPANY,)
)
 Respondent.)

James I. Rubin, Assistant Attorney General, on behalf of
Complainant;
Stephen E. Kitchen and George P. Sullivan on behalf of Respondent.

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

On May 3, 1973, Respondent, Chicago Magnesium Casting Company, located in Blue Island, County of Cook, filed a Motion to Reconsider and Vacate. Respondent's prayer is that this Board reconsider and vacate those portions of its Opinion and Order of April 17, 1973 in which the Board found the Respondent had violated Section 9(a) of the Environmental Protection Act and imposed a penalty of \$1,000.

Respondent contends that it was neither economically reasonable nor technically feasible for the Respondent to bring its emissions into compliance with the Act or the regulations adopted pursuant thereto.

In its brief in support of this motion (p. 2, III), Respondent argues that under the Act and the decisions of the Board unreasonableness of compliance is a complete defense. Respondent's position cannot be sustained.

Section 9(a) of the Illinois Environmental Protection Act provides as follows:

SECTION 9.

"No person shall:

- (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act;"

Respondent, by its own admission, has violated this provision.

Section 33(c) and (iv) of the Illinois Environmental Protection Act provides as follows:

SECTION 33.

"(c) In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:" (emphasis added)

"(iv) the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source."

The Board is satisfied, therefore, that although due consideration should be given the technical practicability and economic reasonableness of reducing or eliminating emissions, this is only one of the many considerations involved in a decision, and unreasonableness of compliance is not per se a complete defense.

Such a stance would constitute an abdication of the duty and discretion conferred upon this Board under the Act to the People of Illinois. The public will not be made to suffer due to the state of technology in a particular field. Respondent's motion is denied.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 11th day of _____, 1973, by a vote of 4 to 0.