

ILLINOIS POLLUTION CONTROL BOARD
July 19, 1973

ENVIRONMENTAL PROTECTION AGENCY)
)
) #73-85
 v.)
)
 ALLIS-CHALMERS CORPORATION, a)
 Delaware Corporation qualified)
 to do business in Illinois, et al)

ORDER OF THE BOARD (BY SAMUEL T. LAWTON, JR.):

Motion has been filed by Respondent asking for the entry of an order that penalty provisions of the Environmental Protection Act are unconstitutional and neither accepting nor rejecting the tender by Respondent to pay \$2,500 as a penalty, and the dismissal of all charges against Respondent, or, in the alternative, for the entry of an Order continuing the above case "including the question of accepting or rejecting the Respondent's offer and of dismissing all charges against said Respondent until a final and binding determination has been made of the constitutional question of the Board's power to impose money penalties."

The motion to dismiss is denied. The Board is aware of the conflicting Appellate Court decisions with respect to the Board's power to impose penalties. However, it does not intend to suspend its enforcement actions pending a determination of this question by the Supreme Court of Illinois. We will proceed with the hearing of enforcement cases and shall assess penalties where appropriate. What the Agency and the Attorney General do so far as the collection of such penalties as assessed pending determination by the courts of the basic penalty power will be for those Agencies, respectively, to resolve. We shall continue to carry out our statutory mandate until directed otherwise by appropriate authority.

IT IS SO ORDERED.

I, Christan Moffett, Clerk of the Pollution Control Board, certify that the above Order was adopted on the 17th day of July, 1973, by a vote of to .