

ILLINOIS POLLUTION CONTROL BOARD

May 30, 1972

ENVIRONMENTAL PROTECTION AGENCY )

v. )

STATE LINE FOUNDRIES, INC. )


PCB 71-86

Dissenting Opinion by Mr. Dumelle

In my original dissent filed to the August 5, 1971 Board order I stated that the penalty of \$7,500 was much too severe. Here was a struggling new company which failed to get a permit on its small cupola being dealt a financial blow almost equal to its year's total profits of \$7,900. Yet no nuisance was proved. I said then and I repeat that a penalty in the range of \$3,000 to \$5,000 would have been fairer. And in the light of recent penalties assessed by the Board even those suggested amounts now seem much too high. In the EPA v. Texaco case (PCB 72-98) an oil company polluted the drinking water supply of the entire City of Olney. The penalty, based upon what I would term a wholly inadequate stipulation, was a mere \$200.

In the State Line case, no nuisance was caused to the neighbors. Previous cases cited in my earlier dissent (EPA v. Southern Illinois Asphalt, PCB 71-31, and Roesch Enamel v. EPA, PCB 71-62) also had not obtained permits but caused severe neighborhood nuisances. Both received penalties of \$5,000 in cases contested before us. Both were larger companies with no apparent financial problems. Thus the State Line penalty should certainly have been something less than \$5,000.

So I can only reiterate that the Board's penalty of \$7,500. was much too severe in comparison to previous cases. In this most recent action the Board had an opportunity to redress its grievous mistake and regrettably chose not to do so.



Jacob D. Dumelle  
Board Member

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Dissenting Opinion was submitted on the 30<sup>th</sup> day of May 1972.



Christan L. Moffett, Clerk  
Illinois Pollution Control Board