

ILLINOIS POLLUTION CONTROL BOARD
October 15, 1987

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 86-50
)
CHICAGO STEEL CONTAINER)
CORPORATION,)
)
Respondent.)

MS. MARCIA BELLOWES APPEARED ON BEHALF OF COMPLAINANT.

MR. BRETT VALIQUET APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by R. C. Flemal):

This matter comes before the Board upon a settlement stipulation ("stipulation") between the Illinois Environmental Protection Agency ("Agency") and Chicago Steel Container Corporation.

Hearings were held on September 4 and September 18, 1986. At the latter hearing the parties incorporated an unsigned copy of the stipulation into the record. By Order of April 30, 1987, the Board noted that it had still not received a signed copy of this document, and further noted that if the signed copy was not received by June 1, 1987, the Board would assume that this matter is not settled and would order an additional hearing set. By Order of July 16, 1987, the Board again noted that it had not received a signed copy of the stipulation and, assuming that this matter was not settled, directed the Clerk to schedule an additional hearing in this docket. The additional hearings were held on September 15, 1987 and September 25, 1987. A signed stipulation was submitted to the hearing officer at the September 25 hearing. The signed copy of the stipulation was submitted to the Board by the Hearing Officer on September 28, 1987.

This proceeding was initiated by the filing of a three-count complaint by the Agency on April 14, 1986. In Count I it is alleged that Respondent caused or allowed the construction and/or operation of painting booths, lining booths, main paint and lining baking oven and drying ovens at its Kilbourn Avenue facility without the Agency having granted operating permits. It is further alleged that as a result of failure to obtain the required permits, Respondent has violated Sections 9(a) and 9(b) of the Environmental Protection Act ("Act"), Ill. Rev. Stat., ch. 111 ^{1/2}, para. 1001 et. seq. (1985), and Section 201.142 and 201.143 of the Air Pollution Regulations of the Pollution Control Board.

In Count II it is alleged that since December 31, 1983, Respondent has failed to comply with the volatile organic materials limitations for miscellaneous metal parts and products coating, in violation of Section 9(a) of the Act and Section 215.204(j) of the Air Pollution Regulations.

In Count III it is alleged that Respondent has failed to submit an emissions limitation compliance plan pursuant to 35 Ill. Adm. Code 215.212 and 215.213, and therefore that Respondent has violated Section 9(a) of the Act and Sections 215.121 and 215.213 of the Air Pollution Regulations.

In the stipulation it is noted that Respondent has attempted five times to obtain the necessary permits to operate its plant. It is further noted that each time Respondent attempted to obtain an appropriate operating permit, it was denied a permit by the Agency, because the information given by Respondent to the Agency relating to volatile organic material "VOM" emissions was deemed inadequate by the Agency for it to determine whether there was compliance. The stipulation indicates that Respondent believes it has now given the Agency information in order to obtain a permit, and that the information shows that Respondent falls within the 25 T/year of VOM limitation exemption as provided by 35 Ill. Adm. Code Section 215.206, and also falls below calculated allowable emissions.

In the stipulation Respondent admits that it has violated Section 9(b) of the Act and will cease and desist from further violations of the Act by obtaining the appropriate permits from the Agency. Respondent neither admits nor denies violating Section 9(a) of the Act, and 35 Ill. Adm. Code 215.204(j) and 215.212(a). In the stipulation Complainant states that it will issue an operating permit to Respondent upon receipt of proof by Respondent that its operations will not cause or contribute to a violation of either the Act or the Illinois Pollution Control Board Air Pollution Regulations, pursuant to Section 39(a) of the Act.¹ Respondent further states that it will execute further reporting establishing compliance with VOM regulations and rules for 1985 and each succeeding year at a time specified in the permit, and that Respondent shall pay a civil penalty of \$5,000.00 to the Environmental Protection Trust Fund.

In evaluating this enforcement action and proposed settlement agreement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act and finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180. Moreover,

¹ A copy of the permit issued by the Agency was introduced by the parties at the September 25 Hearing (Joint Exhibit 2).

the Board finds the stipulated penalty to be necessary to aid in the enforcement of the Act. Accordingly, the Board will order Respondent to comply with all of the terms and conditions of the stipulation, as agreed-upon by the parties.

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

ORDER

It is the Order of the Illinois Pollution Control Board that:

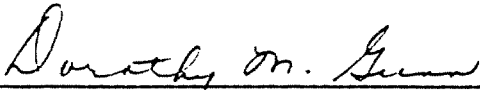
1. Respondent has violated Section 9(b) the Environmental Protection Act and 35 Ill. Adm. Code 201.142 and 201.143.
2. The Board hereby accepts the Proposal executed by Chicago Steel Container Corporation and the Illinois Environmental Protection Agency filed with the Board on September 28, 1987. The terms and conditions of the Settlement Agreement, which is attached hereto, are incorporated into this Order.
3. Respondent shall, by certified check or money order payable to the State of Illinois and designatted for deposit into the Environmental Trust Fund, pay the sum of \$5,000.00 (Five Thousand Dollars). The sum shall be paid within 30 days of the date of this Order. The payment shall be mailed to:

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

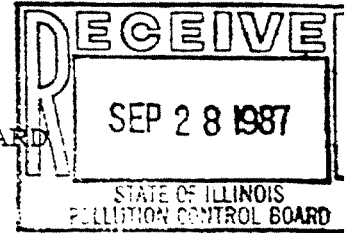
IT IS SO ORDERED.

Board Member J. Theodore Meyer dissents.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 15th day of October, 1987, by a vote of 5-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
Complainant,)
-vs-) PCB 86-50
CHICAGO STEEL CONTAINER CORPORATION, an)
Illinois Corporation,)
Respondent.)

STIPULATION OF FACTS AND PROPOSED SETTLEMENT

Complainant, Illinois Environmental Protection Agency by its attorney, Neil F. Hartigan, Attorney General of the State of Illinois, and Respondent, Chicago Steel Container Corporation, an Illinois corporation, submit the following Stipulation of Facts and Proposed Settlement. The parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties if a full hearing were held. The parties further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in this or any other proceeding except to enforce the terms by the parties to this agreement. This agreement shall be null and void unless the Illinois Pollution Control Board (hereinafter "Board") approves and disposes of this matter on each and every one of the terms and conditions of the settlement set forth.

I. STIPULATION OF FACTS

1. Complainant Illinois Environmental Protection Agency (hereinafter "Agency" or "IEPA"), is an administrative agency of the State of Illinois, established in the executive branch of the State government by the Illinois Environmental Protection Act, (hereinafter "the Act") (Ill.Rev.Stat., ch. 111 1/2, pars. 1001 et seq (1983), charged, inter alia, with the duty of enforcing the Act pursuant to Title VIII.

2. Respondent, Chicago Steel Container (hereinafter "Chicago Steel") is an Illinois corporation incorporated on or about March 16, 1978 and has at all times pertinent herein transacted business in the State of Illinois. Respondent's corporate name was changed to Chicago Steel Container Corporation from Chicago Steel Drum Corporation on or about April 30, 1981. At all times pertinent to these proceedings, Chicago Steel's activities have been conducted at 1846 South Kilbourn Avenue, Chicago, Cook County, Illinois.

3. Respondent manufactures, coats and paints drum parts and complete finished drums at its Kilbourn Avenue facility. Respondent assembles the drums out of pre-cut sheets of steel that are curved and welded to form a drum.

4. Respondent operates four spray booths. The first booth is used to apply an exterior coating to drum tops and bottoms. The second booth is used to apply an exterior coating to the drums and lids with a variety of colors according to customer

specification. The third spray booth is to apply liners to the inside of the drums. The fourth spray booth applies to a liner to the inside of the tops and bottoms. Respondent air dries the coated drums or cures them in bake ovens.

II. FACTS RELATING TO THIS LITIGATION

5. Respondent's Kilbourn Avenue facility is a source of volatile organic material ("VOM") as that term is defined in Section 211.122 of the Air Pollution Regulations of the Pollution Control Board, 35 Ill. Adm. Code, Subtitle B, Chapter I, Section 211.122 (1984). VOM emissions at the site are produced by Respondent's equipment, materials, and processes as described in Paragraphs 3 and 4 above.

6. VOM emissions contribute to the formation of ozone in the environment. Cook County is designated by the United States Environmental Protection Agency a non-attainment area for ozone levels.

7. The Agency has never granted Respondent any permits to construct or operate the painting booths, lining booths, main paint and lining baking oven and drying ovens at the Kilbourn Avenue facility, which are the subject of the complaint filed in this action. Permits have been issued by the Agency for other sources, including paint and lining booths and baking ovens. Although permit applications have been on file with the Agency since December 29, 1983 for the aforementioned booths and ovens, permits were not issued by the Agency because Respondent failed

to demonstrate to the Agency's satisfaction that VOM emissions were within regulatory limits.

III. IMPACT OF VIOLATION AND COMPLIANCE

8. The Agency and Chicago Steel agree that Chicago Steel was late in filing its application for the appropriate permits is a violation of the Act. By failing to timely file, there was an impact upon the public resulting from Respondent's non-compliance of the Act.

9. Respondent has been in operation since 1980. Since that time Respondent has attempted 5 times to obtain the necessary permits to operate its plant. Respondent has never obtained or sought a construction permit from the Agency for the equipment identified in paragraph 7. Each time Respondent attempted to obtain an appropriate operating permit, it was denied a permit by the Agency, because the information given by Respondent to the Agency relating to VOM emissions was deemed inadequate by the Agency for it to determine whether there was compliance. Respondent believes it has now given the Agency information in order to obtain a permit. The information shows that Respondent falls within the 25 T/year of VOC^M limitation as provided by 35 Ill. Adm. Code, Section 215.206, and also falls below calculated allowable emissions.

10. The Agency and Chicago Steel agree that Chicago Steel's facility has social and economic values in that it employs approximately 25 people and provides needed manufactured goods.

11. The IEPA will issue an operating permit to Chicago Steel Container upon receipt of proof from Chicago Steel Container that its operations will not cause or contribute to a violation of either the Illinois Environmental Protection Act or the Illinois Pollution Control Board Air Pollution Control Regulations, pursuant to Section 39(a) of the Act, Ill.Rev.Stat. ch. 111 1/2, par. 1039(a).

12. Further reporting establishing compliance with VOC regulations and rules will be submitted by Chicago Steel Container for 1985 and each succeeding year at a time specified by Respondents operating permit.

NOW THEREFORE, the parties to this proceeding hereby stipulate and agree to the following compliance program.

A. Respondent has violated Section 9(b) of the Act, Ill.Rev.Stat., ch. 111 1/2, par. 1009(b), in the manner and at the times described earlier. Respondent will cease and desist from further violation of the Act by obtaining the appropriate permits from the Agency.

B. Respondent neither admits nor denies violating Section 9(a) of the Act, 35 Ill. Adm. Code 215.204(j) and 35 Ill. Adm. Code 215.212(a).

C. The IEPA will issue an operating permit to Chicago Steel Container upon receipt of proof by Chicago Steel Container that its operations will not cause or contribute to a violation

of either the Illinois Environmental Protection Act or the Illinois Pollution Control Board Air Pollution Control Regulations, pursuant to Section 39(a) of the Act, Ill.Rev.Stat. ch. 111 1/2, par. 1039(a).

D. Further reporting establishing compliance with VOC regulations and rules will be submitted by Chicago Steel Container for 1985 and each succeeding year at a time specified by Respondent's permit.

E. The Agency is authorized to inspect Respondent's premises, at any reasonable time, and to do whatever is necessary within the statutory and regulatory authority to encourage compliance with the Act and the rules and regulations promulgated.

F. Respondent's shall pay a civil penalty of \$5,000.00. The parties agree that a penalty in this case is necessary to promote enforcement of the Act.

The penalty shall be paid within thirty (30) days of the order of the Board accepting this stipulation. Payment shall be made by certified check or money order payable to the Environmental Protection Trust Fund and delivered to:

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

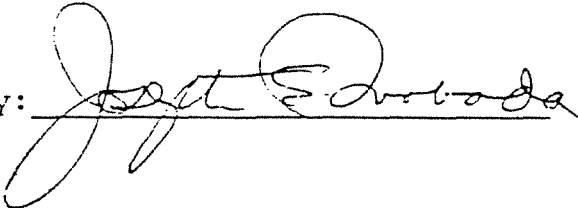
ATTN: Mary Jo Heise

F. This Agreement, when accepted by the Pollution Control Board shall be binding on all signatories and their successors and assigns, and shall constitute a final disposition of all matter set forth in the Agency's Complaint against Respondent.

G. This proposal is submitted to the Board for approval under Section 103.180 as one integral package, and the parties respectfully request the Board to enter its final order approving the entire settlement. All admissions and statements made herein are void before any Judicial or Administrative body if the foregoing settlement agreed to by the parties is not approved by the Board. If the Board should reject any portion thereof, the entire Settlement and Stipulation shall be terminated and be without legal effect, and the parties shall be restored to their prior position in this litigation as if no Settlement and Stipulation had been executed, without prejudice to any parties position as to any issue or defense.

Date: September 18, 1987

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

By: 

CHICAGO STEEL CONTAINER, INC.

Date: SEPTEMBER 23 1987
9-23-87

BY: 
PRESIDENT

mbst1b