

ILLINOIS POLLUTION CONTROL BOARD
December 3, 1987

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 86-25
)
BATES GRAPHIC INDUSTRIES, a)
Delaware corporation, doing)
business in Illinois,)
)
Respondent.)

MS. KARLA DAVIS, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT.

MS. PAULA F. MCKAY, OF GRIFFIN AND FADDEN, APPEARED ON BEHALF OF RESPONDENT.

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

This matter comes before the Board upon a two-part complaint filed on February 25, 1986, by the Illinois Attorney General's Office on behalf of the Illinois Environmental Protection Agency ("Agency"). Count I alleges operation of certain printing equipment without Agency permits. Count II alleges failure to obtain an Agency permit for New Emission Sources.

Hearing was held on September 15, 1987. Both parties were represented by counsel, and no members of the public attended or participated.

At hearing the parties introduced a Stipulation and Proposal for Settlement. That Stipulation is attached and addresses the facts in this matter. In sum, Respondent admits to violation of Section 9(b) of the Environmental Protection Act (Ill. Rev. Stat. ch. 111 $\frac{1}{2}$ par. 1009(b)) and to violation of 35 Ill. Adm. Code 201.144, and agrees to pay a penalty of two thousand dollars (\$2,000). The Stipulation elucidates the pertinent facts.

The Board has considered all the facts, circumstances, and the proposed settlement in light of the criteria set forth at Ill. Rev. Stat. ch. 111 $\frac{1}{2}$ par. 1003(c) and finds the Stipulation and Proposal for Settlement acceptable under 35 Ill. Adm. Code 103.180. Accordingly, the Board orders Respondent to comply with the order set forth below.

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:

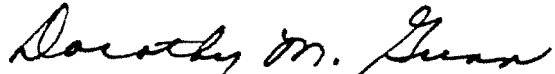
1. Respondent has violated Section 9(b) of the Environmental Protection Act and 35 Ill. Adm. Code 201.144.
2. Respondent shall comply with all the terms and conditions of the Stipulation and Proposal for Settlement filed with the Board on October 29, 1987, which is attached and incorporated by reference as if fully set forth herein.
3. Respondent shall, by certified check or money order, payable to the State of Illinois and designated for deposit into the Environmental Protection Trust Fund, pay the sum of two thousand dollars (\$2,000). The sum shall be paid within 30 days of the date of this Order. Payment shall be mailed to:

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

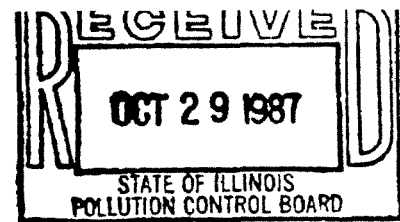
IT IS SO ORDERED.

Board Member J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 3rd day of December, 1987 by a vote of 6-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board



STATE OF ILLINOIS)
)
COUNTY OF COOK)

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 - vs -) PCB 86-25
)
BATES GRAPHIC INDUSTRIES,)
)
 Respondent.)

STIPULATION AND PROPOSAL FOR SETTLEMENT

Now comes Complainant, Illinois Environmental Protection Agency, by its Attorney, Neil F. Hartigan, Attorney General of the State of Illinois, and Respondent, Bates Graphic Industries, Inc., an Illinois corporation by its Attorney, Gene LaPorte and do hereby submit this Stipulation and Proposal for Settlement. The parties agree that the statement of 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 hereof by the parties to this agreement. The 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 herein.

RECEIVED
ENFORCEMENT PROGRAMS

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STATEMENT OF FACTS

1. Complainant, Illinois Environmental Protection Agency (hereinafter "Agency"), is an administrative agency established in the executive branch of the State government by Section 4 of the Illinois Environmental Protection Act (hereinafter "the Act"), Ill.Rev.Stat., 1985, ch.1 111 1/2, par. 1001 et seq., and charged, inter alia, with the duty of enforcing the Act, pursuant to Title VIII thereof and recovering civil penalties pursuant to Title XII thereof.

2. Respondent, Bates Graphic Industries, Inc. (hereinafter "^{Bates}~~Yale~~"), is an Illinois corporation which has at all times pertinent hereto transacted business in the State of Illinois. At all time pertinent to this action Bates has caused or allowed the operation of a business located at 6029 West 31st Street, Cicero, Cook County, Illinois.

3. Bates engages in the business of printing. It operates a number and variety of printing presses and a small coal-fired boiler at its facility.

4. Since at least June 18, 1984 caused or allowed the operation of its business without an Agency permit, in violation of Section 9(b) of the Act and 35 Ill. Adm. Code Section 201.144.

5. By letters of July 13, 1984, and November 20, 1984, Respondent was notified of the violations of Section 9(b) of the

Act and 35 Ill. Adm. Code Section 201.144, as well as the Agency's intent to bring an enforcement action. Respondent was offered an opportunity to meet with the Agency representatives in order to resolve the conflicts which have resulted in the filing of the complaint in this action, in accordance with the requirements of Section 31(d) of the Act.

6. Respondent did not attend the 31(d) meeting on December 3, 1984 but dispatched a letter to the Agency expressing an intent to file the appropriate permit applications. The permit applications was filed on October 7, 1985.

7. A complaint was filed on February 25, 1986 alleging the permit violations.

8. The appropriate permit was issued on November 1, 1985 (copy attached as Exhibit A).

PROPOSAL FOR SETTLEMENT

As a result of the settlement discussions between the parties and of actions taken or to be taken by Respondent, the parties believe that the public interest will be best served by resolution of this enforcement action under the terms and conditions provided herein. This proposal for settlement is expressly conditioned upon and effective only with the approval thereof in all respects by the Board. All statements contained herein are agreed to for purposes of settling this action only and shall be null and void and of no effect in any further proceeding or cause

of action if the Board does not approve this proposal for settlement in its entirety.

TERMS OF SETTLEMENT

Bates and the Agency have agreed to the following Terms of Settlement. These terms shall be in full settlement of the action filed herein by the Agency and Respondent's liability for all violations alleged in this Complaint.

1. The Agency contends and Respondent admits the facts as set out in the Complaint constitute the following violations of the Act and the Board Regulations:

Count I: Section 9(b) of the Act and 35 Ill. Adm. Code 201.144.

2. Respondent agrees that it will expeditiously correct any errors or emissions in its permit application pending before the Agency.

3. Respondent agrees to abide by all terms and conditions of all operating permits issued by the Agency.

4. Respondent agrees to cease and desist from any and all violations of Illinois Environmental Protection Act and Rules and Regulations of the Illinois Pollution Control Board.

5. The parties enter into this Stipulation and Proposal for Settlement and Respondent agrees to pay a penalty specified in this paragraph in order to avoid the substantial costs, inconveniences, uncertainties of further litigation. In order to resolve this dispute and as a condition of settlement,

Respondent agrees to pay a penalty of two thousand (\$2,000.00) dollars into the Environmental Protection Trust Fund. Within 30 days from the date on which the Pollution Control Board adopts a final order approving, accepting and incorporating this Stipulation and Proposal for Settlement. The Agency deems the payment to be appropriate to aid in the enforcement of the Act under the circumstances of this case. Factors bearing on this penalty amount include Respondent's lack of knowledge of the requirement of a State operating permit as well as the length of time between Respondent's actual knowledge of the requirement and the submital of the permit application.

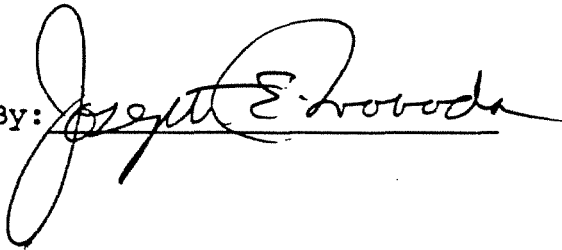
WHEREFORE, Complainant and Respondent jointly request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

For Complainant

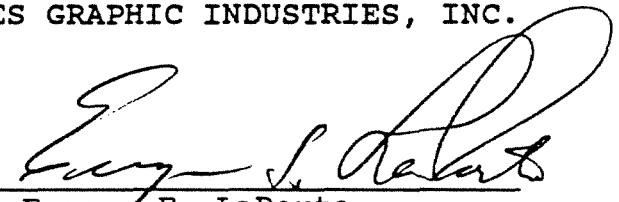
For Respondent

NEIL F. HARTIGAN
Attorney General
State of Illinois

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 

BATES GRAPHIC INDUSTRIES, INC.

By: 
Eugene F. LaPorte
Attorney for Bates Graphic
Industries, Inc.

Dated: 9/8/87

mjmstlb