

ILLINOIS POLLUTION CONTROL BOARD
August 4, 1977

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 76-319
)
)
 AMERICAN NATIONAL BANK AND TRUST)
 COMPANY, atu Trust No. 8397)
)
 Respondent.)

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

This matter comes before the Illinois Pollution Control Board (Board) upon the December 16, 1976 Complaint filed by the Complainant against Respondent American National Bank and Trust Company atu Trust No. 8397 (American), charging a violation of Rule 103(b) (2) of Chapter 2: Air Regulations and Section 9(b) of the Environmental Protection Act (Act). A hearing was held on May 10, 1977 and the parties filed a Stipulation and Proposal for Settlement on that same date.

American, as trustee, holds legal title to a tract of land located at 700 West Bittersweet Place, Chicago, Cook County, Illinois. This tract is improved with a double chamber apartment building (building). Located in the building is a multi-chamber incinerator capable of emitting particulates in the atmosphere which was in operation on April 14, 1972.

Under Rule 103(b) (2), operation of this incinerator after April 1, 1973 requires an operating permit issued by the Environmental Protection Agency (Agency). Without obtaining such permit, this incinerator was operated on numerous occasions between April 1, 1973 and approximately December 16, 1976. Recent use of the incinerator became unnecessary when American entered into a contract with City Waste Management Systems, Inc. to haul away and dispose of garbage and refuse from the building which otherwise would have been burned in the incinerator. However, the incinerator can be made operational at any time.

American, in its stipulation, admits that it has operated the incinerator between April 1, 1973 and approximately December 16, 1976 without an operating permit from the Agency as required by Rule 103 (b) (2) of Chapter 2: Air Regulations and therefore is in violation of Section 9(b) of the Act.

American has agreed to continue to have the refuse and garbage from the building hauled away and disposed of so that the incinerator will not be operated. Further, Respondent agrees to disable the incinerator so that any further operation is not possible.

The Board accepts the stipulation and settlement of the parties, and finds Respondent in violation of Section 9(b) of the Act. The Board has considered the requirements of Section 33(c) of the Act in reaching this decision. The sole injury to, or interference with the protection of the health, general welfare, and physical property of the People consists of particulate emissions from the incinerator. The building has social and economic value as a housing resource, and the building is suitable for the area in which it is located. Finally, hauling away and disposing of the garbage and refuse from the building is a technologically practicable and economically reasonable means of controlling the discharges from this pollution source. Based on these criteria, the Board finds that the imposition of a money penalty is not justified here since a penalty would not aid in the enforcement of the Act.

This Opinion constitutes the findings of fact and conclusions of law of the Board.

ORDER

It is the Order of the Pollution Control Board that:

1. American National Bank and Trust Company at Trust No. 8397 is in violation of Rule 103(b) (2) of Chapter 2: Air Regulations and therefore is in violation of Section 9(b) of the Environmental Protection Act.
2. American shall continue to have the garbage and refuse from the building hauled away and disposed of rather than burned in its incinerator.
3. American shall disable the incinerator from future use on or before June 30, 1977 by tack welding the incinerator door shut and disconnecting gas and electrical lines to the incinerator.

Mr. Dumelle concurs.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 4th day of August, 1977 by a vote of 5-0.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board