

ILLINOIS POLLUTION CONTROL BOARD
April 28, 1977

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
)
)
 v.) PCB 73-286
)
)
 CITY OF CHICAGO,)
)
 Respondent.)

MR. MICHAEL A. BENEDETTO, Assistant Attorney General, appeared on behalf of the Complainant;
MR. HENRY WEBER, Assistant Corporation Counsel, appeared on behalf of the Respondent.

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

This matter comes before the Board on a second Stipulation, submitted by the parties on March 11, 1977. The Complaint in this matter was filed against the City of Chicago on July 13, 1973. A hearing was held on June 11, 1976 at which a Stipulation was submitted. On September 30, 1976 the Board rejected the Stipulation and remanded this action back to the hearing officer (EPA v. City of Chicago, PCB 73-286, ___ PCB ___). The Opinion is hereby incorporated by reference. The Board's reason for rejecting the first stipulation was the lack of information on the current compliance status of the six furnaces which comprise the City's Calumet Incinerator located at 103rd and Doty Avenue, Chicago, Cook County, Illinois. A second hearing was held on March 11, 1977.

The March 11, 1977 Stipulation remedies the inadequacy of the June 11, 1976 Stipulation. Briefly, the Stipulation states that Furnaces #1, 2, 3, 4, and 6 are presently in compliance. Further, Furnace #5 is presently not being operated, pending improvements to its scrubber. Upon the completion of its repair work, the City will apply for a permit from the Agency. If a permit is denied, the City agrees to abandon further use of Furnace #5. The Board finds this proposal to be acceptable and will approve the March 11, 1977 Stipulation.

The remaining issue is the size of any penalty to be imposed for the admitted violations of Air Pollution Regulation 103(b)(2) requiring operating permits, and the emission standards of Air Pollution Regulation 3-3.232. The Board's September 30, 1976 Opinion in this matter sets forth consideration of the reasonableness of these emissions and of the failure to obtain Agency permits.

The Board finds that while a penalty would normally be appropriate for such violations as have been herein admitted, such a penalty, under the particular circumstances of this case would not, on balance, be useful to aid in the enforcement of the Act and with the fact that the Calumet Incinerator is now apparently in compliance with the Air Pollution Regulations the Board finds that the Stipulation in this matter should be accepted and no penalty assessed.

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

ORDER

1. Respondent City of Chicago is hereby found to have violated Air Pollution Regulations 3-3.232 (Old Regulations) and 103(b)(2) at its facility known as the Calumet Incinerator.

2. Respondent shall adhere to the compliance program for Furnace #5 as set forth in the Stipulation (which is hereby incorporated and adopted by reference as if fully set forth herein) and at the March 11, 1977 hearing (pages 7, 8).

a. Until the stated repairs are made, Furnace #5 shall not be operated.

b. Upon completion of repair work, and a 90-day test run, the City shall apply to the Agency for an operating permit.

c. If the permit application is denied the City shall cease operation of Furnace #5 as soon as alternative means are available for the disposal of that refuse, but not later than August 1, 1977.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 27 day of April, 1977 by a vote of 5.

Christan L. Moffett, Clerk
Illinois Pollution Control Board