

ILLINOIS POLLUTION CONTROL BOARD
June 7, 1979

ENVIRONMENTAL PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 78-258
)
K.L. OIL COMPANY, an Illinois)
corporation, d/b/a K & L AUTO)
WASH,)
Respondent.)

MR. WILLIAM J. BARZANO, JR., ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF THE COMPLAINANT.

MR. EDWARD M. BURKE, ATTORNEY AT LAW, APPEARED ON BEHALF OF THE RESPONDENT.

INTERIM ORDER OF THE BOARD (by Dr. Satchell):

This matter comes before the Board upon a complaint filed September 29, 1978 by the Environmental Protection Agency (Agency) against Respondent K. L. Oil Company, an Illinois corporation, d/b/a K & L Auto Wash. The Complaint charges violations of Section 24 of the Environmental Protection Act (Act) and Rules 102 and 202 of Board Rules, Chapter 8: Noise Regulations, in connection with the operation of a gas station and car wash in Justice in Cook County. The parties met on January 25, 1979 before a stenographer and indicated that they would later submit a stipulation. The Hearing Officer, apparently arriving late, granted leave to file within fifteen days written statements as to the proposed settlement and further stated that no members of the public had appeared at the hearing. The parties entered into a stipulation, statement of facts and proposal for settlement filed May 17, 1979.

The stipulation provides that Respondent shall undertake a detailed program to reduce its noise emissions. The additional cost is estimated at \$5000 over the more than \$9000 Respondent has spent complying with Agency suggestions. The Agency is to measure the noise levels on June 15, 1979. In the event Respondent is in violation, the parties are to meet within ten days. After the results are furnished to Respondent, the parties are to negotiate on hours of operation and further noise abatement. If they are unable to agree, the parties are to submit matters in dispute to the Board. Respondent agrees to a penalty of \$500 to be suspended and payable only if Respondent fails to comply with the stipulation or Board Order.

The Board is satisfied that the agreement is reasonable. However, the Board will not enter a final Order under Procedural Rule 331 but will retain jurisdiction of the matter until the parties have a final agreement and compliance plan.

In the event the parties enter into a further settlement, they should consider the following:

1. If a penalty is to be assessed does the agreement provide for an admission or a factual basis upon which the Board can find a violation;
2. If there is a conditionally suspended penalty, has due consideration been given to Section 33(c) of the Act; and
3. Does the agreement provide for final disposition of the case?

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Interim Order was adopted on the 7th day of June, 1979 by a vote of 5-0.

Christan L. Moffett ^{geb}
Christan L. Moffett, Clerk
Illinois Pollution Control Board