

ILLINOIS POLLUTION CONTROL BOARD  
July 8, 1976

ENVIRONMENTAL PROTECTION AGENCY, )  
  ) )  
  Complainant, )  
  ) )  
  v. )       PCB 75-409  
  ) )  
WILLIAM UHLER, SR., ANN UHLER, )  
and WILLIAM UHLER, JR., d/b/a )  
McCOOK DRUM AND BARREL CO., INC., )  
  ) )  
  Respondents. )

Mr. James Dobrovolny, Assistant Attorney General, appeared for the Complainant;  
Mr. William Uhler, Sr. and Mrs. Ann Uhler, Pro Se, appeared for the Respondents.

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

This matter is before the Board on a formal Complaint filed by the Environmental Protection Agency (Agency) on October 17, 1975, alleging that Respondents owned and operated certain new and existing emission sources and air pollution control equipment without the requisite Agency permits, in violation of Section 9(b) of the Environmental Protection Act (Act) and Rules 103(b)(1) and 103(b)(2) of Chapter 2: Air Pollution, of the Board's Rules and Regulations. A hearing was held in the matter on April 23, 1976, in LaGrange, Illinois; the record was held open by the Hearing Officer for additional submissions by Respondents until June 10, 1976.

Testimony at hearing and an unanswered Request for Admission indicate that Respondents operate a metal drum reclamation facility in McCook, Illinois. Operations include the use of a boiler, an incinerator, and a shot-blasting machine with attendant baghouse, all subject to the permit requirements of Rules 103(b)(1) and 103(b)(2). It is clear, both by virtue of oral admissions at hearing and from the unanswered Request for Admissions, that the facility has operated without those permits.

There was, however, some confusion at hearing as to which of the above described equipment could be considered new emission sources (subject to Rule 103(b)(1) or old emission sources (subject to Rule 103(b)(2). It became apparent at hearing that the incinerator, alleged in the Complaint to be an existing emission source, is in fact a new emission source, (R. 24-26). We must for that reason dismiss Count I of the Complaint.

The Complaint's allegations concerning the boiler (existing emission source: Count II), the shot-blasting equipment (new emission source: Count III), and the baghouse (new emission controls: Count III) were correct, (R. 26-30). Based on Respondent's admissions at hearing, we shall therefore find violations of Section 9(b) and Rules 103(b)(1) and 103(b)(2). We do not, however, feel that any penalty is appropriate for those violations. The Attorney General stated, at the April 23, 1976 hearing, that,

. . . once Uhler -- Mr. Uhler was made aware of these permit requirements and contact had been made and communications had, I think he proceeded in good faith to obtain those and has indicated that he will do so in the future. (R. 39.)

In addition, we note that the Hearing Officer held the record in this case open for the submission, by Mr. Uhler, of certain stack tests which were apparently the only thing lacking from an earlier permit application, (R. 39). Other information (Hearing Officer's letters dated January 21 and April 26, 1976) seemingly indicates that Respondents were genuinely confused about the permit requirement, and that they acted swiftly to comply once that confusion was resolved. The stack tests in question were submitted to the Board on May 11, 1976, and indicate that Respondents have reapplied for the relevant permits with stack test data indicating compliance with all applicable emission limitations.

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

#### ORDER

IT IS THE ORDER OF THE POLLUTION CONTROL BOARD that:

1. Respondents William Uhler, Sr., Ann Uhler and William Uhler, Jr., d/b/a McCook Drum and Barrel Company, Inc., are found to have operated a gas-fired boiler, shot-blaster and baghouse at a McCook, Illinois drum reconditioning facility without the required permits from the Environmental Protection Agency, in violation of Section 9(b) of the Environmental Protection Act and Rules 103(b)(1) and 103(b)(2) of Chapter 2: Air Pollution, of the Pollution Control Board Rules and Regulations.

2. Respondents shall, if the required permits have not been received from the Agency within one hundred twenty (120) days of the date of this Order, cease and desist all such violations.

3. Count I of the Complaint in this matter is dismissed.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 8<sup>th</sup> day of July, 1976, by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board