

ILLINOIS POLLUTION CONTROL BOARD
March 22, 1973

ENVIRONMENTAL PROTECTION AGENCY)	
)	
)	#72-284
v.)	
)	#73-46
)	
FERGUSON AND LANGE FOUNDRIES, INC.)	

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

By complaint filed on July 6, 1972, the Environmental Protection Agency ("Agency") charged Ferguson and Lange Foundries, Inc. ("Ferguson and Lange"), owner and operator of a foundry at 1039 West Willow Street, in the City of Chicago, County of Cook, and State of Illinois since on or about August 25, 1971, Ferguson and Lange has operated said foundry in violation of Rule 3-3.111 of the Rules and Regulations governing the control of air pollution according to Section 49(c) of the Environmental Protection Act (ch. 111 1/2, Illinois Revised Statutes, Section 1049(c)). Furthermore, Ferguson and Lange were charged with operating its foundry in such a manner so that it caused or allowed the discharge of contaminants into the environment so that either alone or in combination with sources it causes or tends to cause air pollution in Illinois in violation of Section 9(a). Finally, Ferguson and Lange are charged by the Agency with constructing and installing equipment capable of causing or contributing to air pollution, or designed to prevent air pollution without a permit granted by the Environmental Protection Agency, in violation of Section 9(b) of the Environmental Protection Act (ch. 111 1/2, Illinois Revised Statutes, Section 1009(b)).

The Respondent filed a Petition For Variance on July 6, 1972 and indicates that on or before March 1, 1973, his control equipment will be ready for stack testing. He is requesting a variance until March 31, 1973. We see no objection to this.

The record in this case indicates that the Attorney General's office withdrew the following charges with regard to paragraph 3, and we quote: "We are withdrawing count, paragraph three. We are not asking the Respondent to admit to that since we have no proof of it and no citizen witnesses of any kind." Paragraph three of the complaint is referred to above as the violation of Section 9(a) of the Environmental Protection Act. The record consists of some forty-six (46) pages and the Respondent in effect admits to the charges by the Agency. The Respondent's testimony is more by way of mitigation than defense. The Attorney General presented no case in rebuttal since there were no facts in contention.

The witness who testified in behalf of Respondent testified that approximately \$155,000 to \$160,000 has been or will be spent in order to control the pollution of the foundry. Testimony also indicated that the Respondent had a difficult time obtaining the necessary natural gas, necessary to the efficient operation of his control equipment, causing further delay. According to Respondent's testimony, stack tests would commence on March 1, 1973 and be completed by March 31, 1973.

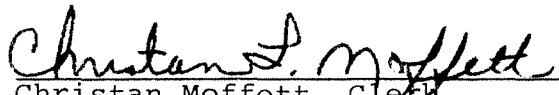
In summary, we find that the undisputed evidence indicates that the Respondent did violate the Act and Rules as aforementioned in the Agency's complaint. Because of the effort, difficulty of control, and large expenditure of capital that the Respondent has made, we will order Respondent to pay a nominal penalty to the State of Illinois for such violations and remind him that we may not be so lenient if such violations persist in the future.

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

IT IS THE ORDER OF the Pollution Control Board:

1. Respondent shall pay to the State of Illinois within thirty-five (35) days from the receipt of this Order, the sum of \$200 as a penalty for the violations found in this proceeding as set forth in the Stipulation. Payment shall be made by certified check or money order payable to the State of Illinois, and shall be sent to Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Drive, Springfield, Illinois 62706.
2. Respondent shall cease and desist from the aforesaid violations of the Act.
3. Respondent is hereby given a variance up to and including March 31, 1973, and he shall report the results of the stack tests to the Environmental Protection Agency.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Order was adopted on the 22nd day of March 1973, by a vote of 4-0.


Christan Moffett, Clerk
Illinois Pollution Control Board