



Voluntary actions stipulated to that were taken prior to the filing of the complaint to reduce environmental effects were (a) construction of air tight buildings, now valued at \$350,000, to house the crushing and screening operations, (b) installation of conveyor covers to reduce airborne emissions for \$12,500, (c) water sprays (installation cost \$16,500 -- water cost of \$4,800 annually), (d) operation of a truck to water and oil plant haul roads at \$4,900 annually, (e) paving of 99th Street and oiling and watering of Muskegon Street, (f) planting of trees and vegetation, (g) experimentation with crusting agents and (h) hiring of a full-time engineer since 1968 who investigates environmental problems among other duties.

In order to avoid protracted litigation, the parties agreed to a submission of the following exhibits: Agency exhibit 1 which consists of seven citizen statements on behalf of the Agency and the statement of Cesar Krzymowski, an Agency environmental engineer. Agency exhibit 2 consists of a memorandum by Dennis Belsky, an Agency environmental engineer, and Mike Kovacs, an Agency engineer, which incorporates the material or the testimony that Mr. Dennis Belsky would testify to. Agency exhibit 3 consists of a deposition of Mr. Dennis Belsky taken by ISBC on May 18, 1973. ISBC exhibits 1, 2, 3, and 4 consist of the statements of four citizen witnesses on behalf of Illinois Slag and Ballast. ISBC exhibit 5 consists of an engineering report by William J. Hines entitled, "Air Pollution Studies for Rosenthal and Schanfield."

The Agency's basic position is that the testimony of the citizen witnesses contained in Agency exhibit 1 when coupled with the statements of Mr. Krzymowski in Agency exhibit 1, Mr. Belsky's memorandum found in Agency exhibit 2, and Mr. Belsky's deposition, EPA exhibit 3, sustain the allegation that ISBC has violated Section 9(a) of the Act. ISBC's argument is that the Agency has failed to prove a violation and that their exhibits rebut those of the Agency.

Under the stipulation submitted by the parties, ISBC has agreed to continue the efforts outlined above to eliminate the possibility of particulate matter being emitted from its plant. This agreement which will be incorporated in the Board's Order below according to the Agency will result in a good program which will abate the problems that are occurring at ISBC's facility (R. 6).

Therefore, the Board is faced with the issue of whether ISBC has violated Section 9(a) of the Act and if so, whether a penalty is in order. The Board has decided ISBC has violated Section 9(a) of the Environmental Protection Act and has decided to assess a \$1,000 penalty for the reasons following.

Citizen statements showed that the particulate matter or dust emanated, at least in part, from ISBC's stock-piles of slag and processing equipment. Mrs. Brajkovich stated that:

"Once a bulldozer got on top of one of the piles and the particles were hitting me in the face as I was mowing the lawn. I saw a shoot dropping the particles on to a pile and the shoot was high above the piles and I saw clouds of dust blowing all over."

Mrs. Bukich stated that:

"I am sure the particles come from the Illinois Slag and Ballast Company because the particles are the same gray-white color and they are sandy. The particles come very heavy when the wind is from the south. The problem got worse about a year ago when they started to pile them very high along 99th Street."

Mr. Kozcielski stated that:

"When they are working with the bulldozer you can see the dust blowing from the Illinois Slag and Ballast piles and it is more visible when the wind blows hardest... they start piling along 99th Street and I notice more dust."

Mrs. Bruzdinski stated that:

"The semi-trucks stir up clouds of dust from the prairie at Illinois Slag and Ballast. The prairie is owned by Wisconsin Steel. I have seen dust clouds coming from beneath the roof of the old tall building at Illinois Slag and Ballast. They are gray-white dust clouds....It is worst when the wind is from the west."

Mr. and Mrs. Szewczyk stated that:

"Around the week of July 17 or the 24, 1972, the pool and porch and the whole house were filled with gray dust....I have asthmatic-bronchitis and my throat actually feels scratchy and sandy especially when I am outside and the wind is from the south or southwest...I

know the dust comes from Illinois Slag and Ballast because the dust is the same color as the high piles they have on their property and I have seen it blowing at times."

Mr. and Mrs. Grzyb stated that:

"When the wind is from the west, clouds of dust blow in from the Illinois Slag and Ballast. The dust is gray-white and settles all over the porch, railing and window sills."

Mrs. Pavaggie stated that:

"I see clouds of dust coming from Illinois Slag and Ballast's direction and from their open trucks."

The Board, based on the above citizen testimony, finds that dust and particulate matter has originated from ISBC's operation.

ISBC has presented citizen testimony that the dust and particulate matter is originating from the unpaved alley, streets, and the unpaved lot owned by Wisconsin Steel. Mrs. Pauline Stanley stated that:

"This open prairie that's the thing they are complaining about. Just the open prairie here, that's the only thing the neighbors on this side of Muskegon are complaining about." (ISBC exhibit 1, p. 3)

Mrs. Joan Zienty stated that:

"The only dust that was there was from the dirt road, and when cars go speeding by when we have an exceptionally dry spell or high wind velocity."

Mrs. Beverly Daniele stated that the dust that had bothered her was from 99th Street (ISBC exhibit 4, p. 3). Mr. Paul Flisiak stated that he had observed dust blowing off of east 99th Street (ISBC exhibit 3, p. 4). All four exhibits submitted by ISBC contained a statement to the fact that the citizens have not observed dust blowing from ISBC's stock piles or facilities. However, Mr. Flisiak stated that:

"On my block...everybody would say something about the road..."

He further stated that:

"Maybe the people on the other block, some might say about the piles, might be too high...that were just complaining about the dust..."

The Board finds that respondent has shown that east 99th Street contributes to the dust and particulate problem in the surrounding neighborhood, but has failed to rebut the Agency's statements that dust was emanating from ISBC's slag piles and facilities.

The statement of one Agency witness, Mr. Szewczyk, pertained to a health effect -- asthmatic-bronchitis -- that was allegedly aggravated when the wind was from the south or southwest. ISBC's citizens statements contain statements that their health was not impaired. On the sole basis of the citizen testimony, the Board does not find that ISBC is producing a health problem. The Board does find that particulate matter and dust emanating from ISBC's slag piles and operating facilities is constituting an unreasonable interference with the enjoyment or property by the surrounding residents. People should not be subjected to being hit in the face with particulates (statement of Mrs. Brajkovich, Agency exhibit 1). The citizen witnesses presented by the Agency establish that particulate matter and dust contribute to an unreasonable interference with their property, in that results in the need to clean facilities more often than necessary, prohibited the use of outside clotheslines to dry clothes, soils furniture and scratches the finish of furniture when it is wiped off (Agency exhibit 1).

The Board's finding that ISBC has violated Section 9(a) of the Environmental Protection Act by allowing particulate matter and dust to unreasonably interfere with life and property is further borne upon the results of Agency high-vol sampling which was conducted at three locations surrounding ISBC's property (Agency exhibit 2 and 3). High-volume sampling conducted by the Agency of suspended particulate matters on September 5, 6, 7, 8, 15, and 16, all show readings increasing as a result of wind blowing toward site 1 and 2 from site 3, which down wind of ISBC's property. The highest values show an increase of 848 mgm/M<sup>3</sup> as the wind blew from site 3, the Skyway Bowl toward site 1, which is down wind from ISBC's plant and stockpiles. Results of testing on September 15 and 16 showed that ISBC contributed 175 and 67 mgm/M<sup>3</sup> to the ambient air quality. The results of this sampling by the Agency supports the conclusion of the Board that ISBC contributes a measurable amount of suspended particulate matter to the ambient air quality.

The Board has found a violation of Section 9(a) of the Environmental Protection Act by ISBC because it has unreasonably interfered with life and property of the surrounding residences so as to cause or tend to cause air pollution, either alone or in combination with particulate matter from other sources. The Board has decided to assess a \$1,000 penalty for this violation.

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

-6-  
ORDER

The Illinois Pollution Control Board finds that Illinois Slag and Ballast Company has violated Section 9(a) of the Environmental Protection Act and orders that Illinois Slag and Ballast Company pay a \$1,000 penalty for that violation. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Drive, Springfield, Illinois 62706.

The Board orders that Illinois Slag and Ballast Company carry out the terms of Paragraph 10 of the Stipulation:

A. Apply a crusting agent, at least once every 12 months, or more if required, to the north face and ridge of ISBC slag stockpiles that border 99th Street.

B. Water down the south face of the slag stockpiles that border 99th Street during the hot, dry months of the year (generally May through October), in order to reduce the possibility of substantial fugitive dust resulting from loading operations--the watering to be accomplished in the following method:

i. Sprinkling program -- the stockpiles will be watered down by use of rotating or constant sprinklers for a period of time sufficient to soak the surface of the piles, most likely during the entire night prior to the occurrence of loading and handling operations upon the stockpiles.

ii. By use of manually operated hoses during the day when conditions require.

Illinois Slag and Ballast Company shall not engage in loading operations from the stockpiles bordering 99th Street unless it reasonably believes that the materials in said stockpiles have been watered down or are moist as a result of the application of water or other weather conditions, or that the materials are otherwise sufficiently treated or composed so that the likelihood of substantial dust being emitted during loading operations is minimized.

C. Illinois Slag and Ballast Company agrees to use its best efforts to extend in an easterly direction the present slag stockpile bordering 99th Street, as permitted and dependent upon ISBC's productivity and supplies of slag from time to time, and the demands of slag by its customers.

D. Illinois Slag and Ballast Company agrees to wet down other stockpiles in its general storage area from which it may be loading materials when weather conditions (other than high winds) require, and when it reasonably can be believed that substantial fugitive dust will occur as a result of such operations.

E. Illinois Slag and Ballast Company agrees to operate and use its present water truck upon its internal roadways in its stockpile area between 7:00 a.m. and 3:30 p.m. on days that the Company is loading materials (excluding winter months) when weather conditions indicate the likelihood of substantial emissions of dust from interior roadways, except however, for periods of repairs upon the truck, when the truck is being used for other company purposes, including watering down of other roadways used by the Company (including the uses set forth in paragraph H hereof) or other emergencies preventing use of the truck.

F. Illinois Slag and Ballast Company has indicated that it is in the process of obtaining from the owner of the vacant lot directly to the east of the Company permission to place stanchions or barriers upon the lot between Muskegon Avenue and the lot, so as to reduce the possibility of trucks or other vehicles going on the unpaved lot. Illinois Slag and Ballast Company has agreed to provide such barriers or stanchions at its expense.

G. Illinois Slag and Ballast Company has further agreed, with the consent of the owner of the aforesaid unpaved lot, to pave such portions of the lot that border Muskegon Avenue and that may be used by trucks and cars in order to turn around.

H. As permitted by local authorities, the Company has agreed to oil, asphalt or water down the portions of Muskegon Avenue and 99th Street (being public streets of the City of Chicago) that border the Company's facilities.

I. Illinois Slag and Ballast Company is in the process of obtaining permission from the present owners of the lot to the east of the Company to seed or landscape the lot, and Illinois Slag and Ballast Company is exploring the possibilities of performing the foregoing.

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 31<sup>st</sup> day of January, 1974 by a vote of 5-0.

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