

ILLINOIS POLLUTION CONTROL BOARD
May 29, 1974

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 vs.) PCB 73-405
)
 STAINLESS PROCESSING COMPANY,)
 a Delaware corporation,)
)
 Respondent.)

Mr. Richard W. Cosby, Assistant Attorney General, on behalf of the
Environmental Protection Agency;
Mr. Richard P. Glovka, Attorney, on behalf of Respondent.

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

On September 25, 1973, the Environmental Protection Agency
filed Complaint against Stainless Processing Company, charging therein
violation of Rule 103(b)(2) of Chapter 2, Part I of the Air Pollution
Regulations and violation of Section 9(b) of the Illinois Environmental
Protection Act. Public hearings were held in this matter on December
28, 1973 and February 21, 1974.

Respondent is the owner and operator of a metal processing facility
located at 119th Street and Cottage Grove Avenue in Chicago, County
of Cook, Illinois. Said facility includes four crushers and a boring
dryer. Respondent is engaged in the business of buying, sorting and
selling metal scrap.

The Complainant alleges as follows:

1. The aforesaid metal processing facility is a primary metal
industry operation within the meaning of Code 33 of the "Standard
Industrial Classification Manual" and is further an "emission source"
as defined by Rule 101 of Chapter 2, Part I of the Air Regulations,
and, as such, is regulated by Rule 103(b)(2) of Chapter 2, Part I of the
Air Regulations.

2. Rule 103(b)(2) of Chapter 2, Part I of the Air Regulations
provides in part that primary metal industry operations obtain an
operating permit from Complainant by November 1, 1972. Pursuant to
Rule 103(b)(2)(B) of Chapter 2, Part I of the Air Regulations, the
aforesaid date was advanced by Complainant to December 1, 1972.

3. That beginning on December 1, 1972 and continuing through the
filing of the Complaint herein, Respondent has caused its metal processing
facility to operate without having first obtained operating permits
from the Complainant.

4. That the aforesaid conduct described in Paragraph 3 above constitutes a violation of Rule 103(b)(2) of Chapter 2, Part I of the Air Regulations and a violation of Section 9(b) of the Act, Ill. Rev. Stat., ch. 111 1/2, par. 1009(b)

The cause comes before the Board with a Stipulation And Proposal For Settlement entered into between the parties.

According to that Stipulation, there is located on Respondent's premises, a facility which constitutes an "emission source" as defined by Rule 101 of Chapter 2, Part I of the Air Regulations. That facility is owned and operated by Cryogenics, Inc., a corporation organized and existing under the laws of the State of Illinois. The stock of Cryogenics, Inc. is owned by Respondent.

Beginning in 1973, Cryogenics, Inc. undertook the construction of a cryogenic fragmentation process, the purpose of which is to salvage and recycle valuable metals from scrap.

The Cryogenics, Inc. processing facility is a primary metal industry operation within the meaning of Code 33 of the "Standard Industrial Classification Manual" and thus Cryogenics, Inc. should have obtained a construction permit from Complainant in order to undertake the construction of the process. Since April, 1973, Cryogenics, Inc. has periodically operated its process. Such operation should not have taken place without an operating permit issued by Complainant.

From 1971 to the present, Respondent has had a certificate of operation from the City of Chicago, Department of Environmental Control for its various processes. According to the Stipulation, Respondent was unaware of any other permit requirement until the filing of this enforcement action.

On or about November 30, 1973, Cryogenics, Inc. applied to the Agency for construction permits for its various emission sources and air pollution control equipment. On or about December 19, 1973 Cryogenics, Inc. applied to Complainant for an operating permit for its process. On December 20, 1973, Complainant issued a construction permit. On February 11, 1974, Complainant issued an operating permit.

Finally, according to the Stipulation, Respondent operated its rotary drum boring dryer on August 8 and 9, 1973 without first obtaining an operating permit from Complainant. On those dates, Respondent experimented with the effectiveness of the dryer on certain scrap metal containing steel and brass. The experiment convinced Respondent that it could not use the dryer on that material and, consequently, no further use was made of the dryer in processing either

that scrap mixture or any other materials. The dryer has been partially dismantled and is totally unuseable.

We find that Respondent has violated Rule 103(b)(2) and Section 9(b) of the Act by the periodic operation of the cryogenic fragmentation process and the operation, on the two dates specified, of its rotary drum boring dryer, both without the requisite operating permits. The parties have agreed that a penalty in the amount of \$1,750.00 is reasonable and just. We concur.

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

IT IS THE ORDER of the Pollution Control Board that:

1. For the violations found herein, Respondent shall pay to the State of Illinois the sum of \$1,750.00 within 35 days from the date of this Order. 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 Road, Springfield, Illinois 62706.

2. Respondent shall not operate the subject rotary drum boring dryer without first obtaining an operating permit from the Environmental Protection Agency.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on this 24th day of May, 1974 by a vote of 5-0.

Christan L. Moffett