

ILLINOIS POLLUTION CONTROL BOARD

January 3, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 vs.) PCB 73-406
)
ISRINGHAUSEN RXR SPECIALISTS, INC)
)
 Respondent.)

Larry Eaton, Assistant Attorney General for the EPA
Richard Shaikewitz, Attorney for Respondent

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

Complaint was filed September 26, 1973 by the Environmental Protection Agency charging Respondent with operating a salvage operation which involved open burning in violation of Section 9(c) of the Environmental Protection Act and Rule 502(a) of the Air Pollution Control Regulations. The alleged violations occurred on August 6 and 7, 1973 at Addyville, Illinois.

When this matter was originally called for hearing Respondent admitted the violations. In lieu of testimony the parties presented a Stipulation and Proposal for Settlement which stated that Respondent had salvaged five railroad boxcars by open burning on the dates specified in the Complaint. Respondent consented to a "cease and desist order" and a \$1,000 penalty. However, the Stipulation specified that the \$1,000 would be placed in escrow pending a decision by the Illinois Supreme Court that the Pollution Control Board had authority to impose monetary penalties. The escrow arrangement was rejected by the Board. Since the parties had agreed that the entire Stipulation would be considered null and void if not accepted in toto the Board rejected the stipulated settlement on January 17, 1974.

On March 29, 1974 the Illinois Supreme Court held that the Pollution Control Board has the power to impose monetary penalties. (Waukegan vs. PCB 311 N.E. 2d 146). Several months later the parties submitted their new Stipulation for Settlement to the Hearing Officer. This new Stipulation contains essentially the same language as the first Stipulation with the exception that

Isringhausen now agrees to pay the monetary penalty directly to the State. The parties agree that an Order be entered showing that Respondent violated Section 9(c) of the Act and Rule 502(a). They further agree that Respondent should be ordered to cease and desist from the foregoing violations by refraining from conducting salvaging operations except in strict accordance with the Act or by obtaining a variance from the Board prior to conducting such salvage operations.

The Board accepts the Stipulation for Settlement and will enter the necessary Order. We find that Respondent has violated Section 9(c) of the Act and Rule 502(a) of the Air Pollution Control Regulations through the open burning of railroad boxcars. The penalty of \$1,000 is appropriate for this violation, since there is no showing that it occurred on more than one occasion.

ORDER

It is the Order of the Pollution Control Board that:

1. Isringhausen RXR Specialists, Inc. shall pay to the State of Illinois by February 6, 1975 the sum of \$1,000 as a penalty for the violations found in this proceeding. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois EPA, 2200 Churchill Road, Springfield, Illinois 62706.
2. Respondent shall cease and desist from open burning in violation of the Environmental Protection Act and Regulations of the Pollution Control Board.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 3rd day of January, 1975 by a vote of 5 to 0.

Christan L. Moffett