

ILLINOIS POLLUTION CONTROL BOARD
February 27, 1975

ENVIRONMENTAL PROTECTION AGENCY,)
 Complainant,)
))
 v.) PCB 73-192
))
I.S. BERLIN PRESS, INC.,)
 Respondent.)

Mr. Fredric J. Entin, Assistant Attorney General, appeared on behalf of the Environmental Protection Agency; Mr. Lester D. Foreman, Rudnick, Wolfe, Snyderman & Foreman, appeared on behalf of I.S. Berlin Press, Inc.

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

This action involves a Complaint filed against I.S. Berlin Press, Inc. (Respondent), by the Environmental Protection Agency (Agency) on May 4, 1973. Respondent operates a printing facility located in Chicago, Illinois. The Complaint alleges that from July 1, 1970 to the date of the filing of the Complaint Respondent operated its facility in such a manner as to cause air pollution in violation of Section 9(a) of the Environmental Protection Act. The Complaint also alleges that Respondent failed to obtain permits for a press and an incinerator installed in the facility after July 1, 1970, in violation of Section 9(b) of the Act and Section 3-2.110 of the Rules and Regulations Governing The Control Of Air Pollution (Air Rules).

On the date scheduled for public hearing, July 26, 1973, the parties submitted a Stipulation of Facts. Respondent admitted that it owned and operated the printing facility consisting of four lithographic web presses; that hydrocarbon emissions occurring during the drying process are ducted through afterburners on each of the presses; that such afterburners are theoretically efficient incinerators of hydrocarbons when operated in the temperature range of 1200 to 1500°F; and that at infrequent times since July 1, 1970, such afterburners either did not function or operated below 1200°F.

It was further stipulated that the stacks on the roof of Respondent's facility are located on a level with third floor windows of adjacent apartment buildings; that any odors from stack emissions would disperse on a line level with said windows; that between July 1, 1970 and May 4, 1973, the Environmental Protection Agency had received numerous complaints from persons living near the facility;

that odors described as "sickening", "noxious" and "irritating" were identified as originating from Berlin; and that the odor problem was not continuous, but related to variable factors within the control of Berlin.

The Stipulation further provided that one press was installed in April, 1972, without having first applied for a construction permit as required by Rule 3-2.110 of the Air Rules and as such constituted a violation of Section 9(b) of the Act. In addition, an afterburner was installed and connected to this press in April, 1972, also in violation of Rule 3-2.110 and Section 9(b).

Subsequent to the filing of the Complaint, Berlin voluntarily installed interlocking devices on the presses to insure they would not operate without the afterburners also operating at a temperature of at least 1200°F. Berlin also agreed to raise its stack height thirty feet and to perform a stack test by January, 1974, and that if such test indicated non-compliance with the applicable Pollution Control Board Regulation, Rule 205(f), to conform the operating temperature of its afterburners to the temperature at which compliance would be achieved.

Subsequent to the filing of the initial Stipulation, Respondents moved on January 14, 1974 to reopen the hearing on the grounds that compliance would work a severe hardship and be unnecessary to accomplish the purposes of the Act. The Board granted this motion on January 24, 1974. Additional hearings were held on September 27 and October 30, 1974. Testimony was received to the effect that Berlin had modified its equipment on three incinerators according to recommendations made by a consultant firm, Particle Data Laboratories, and that such firm had conducted a performance test on the least efficient incinerator, under supervision of the Agency. A representative of the Agency testified that such test indicated compliance with Rule 205(f) of the Air Pollution Regulations and that two other incinerators would also comply under similar operating parameters (R. 60). The fourth press had been sold and its incinerator was not in use. He further testified that an interview of citizens living in the vicinity of Respondent's plant indicated a considerable improvement in odor emission levels and no further cause for complaint after the modifications and stack test had been performed (R. 61). The Agency thus concluded that the increased stack height, as provided for in the original Stipulation, was no longer necessary.

As a result, a revised Stipulation was entered into on November 12, 1974 which differed materially from the original one in only a few aspects; the stack height requirement was dropped, a minimum afterburner temperature of 1400°F was required, maintenance procedures recommended by Particle

Data Laboratories were required, and a reporting procedure in case of malfunction was outlined. The Board adopts these stipulations in full. In accepting the Agency's recommendation that the stack height increase is not necessary, we rely on the evidence that citizen complaints had ceased. This finding should not be construed as approval of the present stack height should such complaints reoccur in the future.

The Board also finds, after considering all factors set out in Section 33 of the Act, that the Stipulation is adequate to establish a violation of Section 9(a) of the Act. Respondent did not deny that it emitted odors so as to cause or tend to cause air pollution. We have previously indicated that air pollution is proved if the evidence shows a significant interference with the enjoyment of life and property that can be corrected by the employment of technology that is available at reasonable cost. Moody v. Flintkote, PCB 70-36. Respondent admitted that citizen complaints identified Berlin as the source of an odor problem. Considering the close proximity of residential dwelling units, where in fact stack emissions were adjacent to third floor windows, Respondent should have been less remiss in maintaining its incinerators at an efficient level. Moreover, the relative ease with which Respondent effectuated repairs to insure compliance with the Act and alleviate citizen complaints indicates the technical practicability and economic reasonableness of reducing the emissions involved. Certainly the social and economic value of the printing facility is not such as to outweigh these offsetting criteria.

We recognize that Respondent cooperated with the Agency in reaching a solution to this problem. Our finding today is affected by this mitigating factor. However, we must also note that Berlin required the impetus of the Complaint to effectuate the necessary repairs. Although an interlock system was installed soon after the Complaint, the overhaul of the afterburners and stack test were delayed for a considerable period of time as a result of motions to reopen the hearing and for continuance. During this entire period we must assume Berlin remained in violation of the Act, benefitting from pollution at the expense of citizens living in apartments abutting the plant. Although the principal reason for authorizing the imposition of civil penalties is to aid the enforcement of the Act, the record here shows that an effective means of eliminating the problem was readily available, at reasonable expense, much before Respondent actually acted. Accordingly, we impose a fine of \$500 for the violation of Section 9(a) found herein.

The permit violations which have been alleged by the Agency were admitted by Berlin and we find the Respondent guilty on these charges. Since the record does not indicate

if the press and incinerator which are the subjects of these violations are still operating, or if these are the ones that have shut down, we have no way of knowing if these violations are continuing. Furthermore, the record does not indicate if operating permits have been obtained for any of the emission sources as required under Section 103(b) (2) of the present Air Pollution Regulation (Illinois Pollution Control Board Rules and Regulations, Chapter 2). We hereby order Respondent to cease and desist from any continuing violations of all permit requirements under the Act and Regulations.

In EPA v. American Generator and Armature Company, PCB 71-329, the Board announced a policy of not assessing a penalty for permit violations prior to the date of that decision, January 6, 1972 (Mr. Dumelle dissenting). Since the violations in this instant occurred subsequent to this date, when Respondent should have been on notice as to permit requirements, we feel a monetary penalty in the amount of \$500 is justified.

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

ORDER

It is the Order of the Pollution Control Board that I.S. Berlin Press, Inc., carry out the following terms of the Stipulation:

1. Respondent, I.S. Berlin Press, Inc., will maintain its afterburner-press interlocks in such a manner that its presses cannot operate without the associated afterburners also operating at a minimum temperature of 1400°F. The interlock shall include a lock on the temperature controls such that access to such controls are strictly limited.

2. Respondent, I.S. Berlin Press, Inc., will implement the maintenance procedures for the incinerators recommended by Particle Data Laboratories, Ltd. and testified to by Patrick J. Morrissey, Manager of Plant Engineering, I.S. Berlin Press, Inc., at the hearing of September 27, 1974. These procedures will include testing every six months, an in-house check of the incinerators every month and duct checks every three months. In the event it becomes necessary to conduct the various maintenance procedures at shorter intervals of time, said maintenance schedule will be reduced accordingly by Berlin.


3. Respondent, I.S. Berlin Press, Inc., shall in the event of a condition in which the presses in question actually run when the afterburner was functioning at a temperature of less than 1400°F, so notify the Illinois Environmental Protection Agency by telephoning the Manager of Region II Surveillance, Department of Air Pollution Control, at 793-4966 and send a confirming letter to said Manager at:

Naval Armory
Randolph Street at Lake Shore Drive
Chicago, Illinois 60601

4. The Board further orders I.S. Berlin Press, Inc., to cease and desist from any continuing violations of all permit requirements under the Act and Regulations, within 45 days from the date of this Order, and to pay a penalty in the sum of \$1000 within 35 days of the date of this Order, for violations of Sections 9(a), 9(b) of the Act and 3-2.110 of the Rules found in this proceeding. Penalty payment by certified check or money order shall be made payable to: Environmental Protection Agency, Fiscal Services, 2200 Churchill Road, Springfield, Illinois 62706.

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 27th day of February, 1975 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board