

The Board's opinion of August 1971 indicated that the monetary penalty was being imposed due to State Line's "inaction . . . in failing to follow the basic fundamentals of State law on air pollution." State Line had never sought a permit from the Agency; and, since May, 1968, its operations had emitted substantially more particulates than allowed under State regulation. In regard to the amount of the penalty, the Board expressly stated, "the penalty would be much greater in amount if State Line were not so heavily committed financially now." Despite the passage of time and State Line's good faith efforts to comply with its variance and with the existing Illinois regulations, the reasons for the imposition of the \$7,500 penalty still remain. Further, the original opinion in this case was filed in August, 1971; this Motion was not made until March 1972. After this seven-month hiatus, we are not inclined to re-open the case for a reconsideration of the amount of the penalty imposed. If State Line had sought to mitigate the amount of the penalty, it should have applied within a reasonable amount of time after the entry of the original order, not seven months later. We commend State Line for the completion of its pollution abatement program but do not find cause at this late date to re-open the case for any further discussion of the penalty.

The Motion is hereby denied.

Mr. Dumelle dissents.

I, Christan L. Moffett, Clerk of the Pollution Control Board, certify that the above Opinion and Order was adopted on this 30th day of May, 1972, by a vote of 4-1.

Christan L. Moffett