

ILLINOIS POLLUTION CONTROL BOARD

January 17, 1974

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

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

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

Complaint was filed on September 26, 1973 against Isringhausen RXR Specialists, Inc. alleging that Respondent was engaged in a salvage operation involving open burning in violation of Section 9(c) of the Environmental Protection Act and Rule 502(a) of Chapter 2, Part 5 of the Regulations of the Pollution Control Board. The alleged violation occurred on August 6 and 7, 1973 at Addieville, Illinois.

When the matter was called for hearing Respondent admitted the violation. The parties entered into a stipulation and proposal for settlement which indicate that Respondent had salvaged five railroad box cars by open burning on the dates specified in the complaint.

Both parties ask 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, (a) by refraining from conducting salvaging operations except in strict accordance with the Illinois Environmental Protection Act or (b) by obtaining a variance from the Illinois Pollution Control Board prior to the conduct of such salvage operations. In addition Respondent agrees to pay a penalty in the amount of \$1,000, but conditions this payment upon a finding by the Illinois Supreme

Court that the Pollution Control Board has authority to impose monetary penalties. The parties desire to use an escrow arrangement for the \$1,000, pending decision by the Illinois Supreme Court regarding our authority.

We do not agree to the escrow arrangement or the condition specified in the stipulation regarding the time of the payment. We do not know when the Illinois Supreme Court might rule upon our penalty powers and do not wish to create escrow accounts, especially where the time for payment of the penalty will be at some indefinite time in the future.

The parties state that the stipulation shall be null and void if we do not accept the order as proposed by them. If that provision were not in the stipulation we would order payment of the \$1,000 penalty within three months, but under the circumstances we have no alternative but to reject the settlement.

ORDER

The settlement stipulation is rejected and the matter shall be scheduled for hearing on the merits at an early date.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted this 17th day of January, 1974 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board