

ILLINOIS POLLUTION CONTROL BOARD

January 17, 1974

Environmental Protection Agency)
)
 v.) PCB 73-344
)
 THE HOWELL Company, a Division of)
 Interlake, Inc., a Delaware Corporation)
 qualified to do business in Illinois)

ORDER OF THE BOARD (by Dr. Odell)

A Complaint was filed by the Environmental Protection Agency ("EPA") on August 16, 1973, and subsequently a Stipulation and Proposal For Settlement was agreed to which reads in the pertinent part (page 4):

. . . both parties believe that the public interest will be best served by a disposition of this proceeding without a full hearing and the resolution of complex legal issues (emphasis added) since the disputes between the parties are completely resolved by the control facilities about to become operational.

Our function in enforcement actions is to determine whether the Act, rules and regulations have been violated and then render the appropriate final order under Section 33(a) of the Environmental Protection Act. In this case, Respondent neither admits for the purpose of Settlement any violation nor are sufficient facts given to enable us to make a determination. A final order -- and the protection it will afford Respondent Howell under the principle of res judicata -- cannot be entered until the parties to the Settlement submit facts or agree, for this Stipulation, as to which parts of the Act, rules, and regulations have been violated. Furthermore, since we are asked to approve a \$10,000 penalty, we must know which sections of the Act and regulations have been breached to determine if such an amount is reasonable.

This cause is remanded to the parties for filing additional statements with the Illinois Pollution Control Board within 30 days of this Order to resolve the questions which we raise above.

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

Christan L. Moffett
 Christan L. Moffett, Clerk