ILLINOIS POLLUTION CONTROL BOARD
November 21, 1972

ENVIRONMENTAL PROTECTION AGENCY)
)
) #72-170
v.)
)
BRADLEY DIVISION - ROPER CORPORATION)

LARRY R. EATON, ASST. ATTORNEY GENERAL, APPEARED ON BEHALF OF ENVIRONMENTAL PROTECTION AGENCY
BRUCE E. PASHLEY, APPEARED ON BEHALF OF RESPONDENT

OPINION AND ORDER OF THE BOARD (BY SAMUEL T. LAWTON, JR.)

Complaint was filed against Bradley Division of Roper Corporation alleging that between December 1, 1971 and October 3, 1972, the date of the hearing in this matter, Respondent discharged particulate matter, smoke and other contaminants from its Bradley,Illinois plant so as to cause air pollution and violated Rule 2-2.53 of the Rules and Regulations Governing the Control of Air Pollution. A cease and desist order and penalties in the maximum statutory amount were sought.

Petitioner manufactures lawn and garden tractors, chain saws, dinette furniture and other lawn care and gardening devices and equipment (R.29). The payroll varies between 800 and 1,500 persons (R.29). At the hearing, an oral stipulation was entered into between the Environmental Protection Agency and the Respondent, which does not appear to have been reduced to writing, but which has been incorporated in full in the transcript of proceedings. The stipulation provides in substance, as follows:

That on or prior to December 1, 1971, Respondent utilized an Erie City boiler with capacity of 6,000 pounds of steam per hour and a Lasker boiler with a capacity of 60,000 pounds of steam per hour. (R.5) Both boilers were used for heating and the prevention of pipe freezing and not in the manufacturing process. (R.24). Subsequent to December 1, 1971, the Lasker boiler was the only boiler burning coal. In October of 1970, Respondent requested availability of natural gas from Northern Illinois Gas Company in order to completely eliminate coal burning at its plant. Verbal approval was given of this request on March 1, 1972 and by writing on July 1, 1972. Accordingly, the required gas supply is available and will enable a termination of coal burning at both boilers.

On April 17, 1972, Respondent increased the natural gas capacity of the Erie City steam boiler so that it would fulfill the heating needs of the plant until gas conversion of the Lasker boiler was achieved. No coal has been burned in either boiler since April 17, 1972, gas having been burned in the Erie City boiler and the Lasker boiler having been shut down. Conversion of the Lasker boiler to gas is to be completed by December 31, 1972. The stipulation further provides that the unavailability of gas precluded the ability of the Respondent to comply with its "pollution control program" and the relevant statutory and rule provisions with respect to air pollution.

Exhibit F, introduced in evidence, (R.11) indicates that when coal was burned in the Lasker boiler, emissions averaged between 3.46 and 3.77 pounds per million btu against a permissible particulate emission limit of .8 pounds per million btu.

Nothing is said in the stipulation about the intensity of Respondent's efforts to obtain gas or alternative fuels to bring its facility into compliance. While reference is made to a pollution control program, we do not know whether this was an Air Contaminant Emission Reduction Program (Acerp) as required by the now repealed Air Pollution Control Act and Regulations promulgated thereunder, and if no Acerp was filed, why such was not done.

We are not informed to what extent, if any, the community has suffered as a consequence of Respondent's uncontrolled emissions. Colloquy between counsel indicates that the plant structure is made of wood and would not support pollution abatement equipment necessary to control emissions from the coal-fired boilers, although we find no details with respect to this matter. While the Company appears to be presently in compliance and is embarking upon a program which will cause it to remain so, we do not feel that we have been given sufficient information to adequately dispose of the matter. The case is not comparable to A. E. Staley Mfg. Co. v. Environmental Protection Agency, #71-174, 2 PCB 521 (September 30, 1971 where the evidence adequately demonstrated petitioner's efforts to obtain a gas supply, the absence of which precluded its compliance with an abatement program. While we look with favor upon disposing of matters of this sort by agreement when adequate facts are presented on which the Board may base its decision, we feel that the record in the present case is inadequate to enable the Board to arrive at a judgement. We direct that Respondent, within 14 days from the date of this Order, submit to the Board and Agency, further information concerning its efforts to obtain gas or alternative fuels to bring its operation into compliance, what abatement measures were considered and why they were not implemented, whether in fact an Acerp was submitted and if not, why not, and what nuisance, if any, has been imposed on the community as a consequence of Respondent's emissions. The Environmental Protection Agency is directed to file with the Board within 10 days of

the receipt of the foregoing information from Respondent its comments with respect to the same matters, including such recommendation for penalty, if any, as it feels appropriate.

IT IS SO ORDERED.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on the 21st day of December, 1972, by a vote of 5 to 0.

Christan L. Moffett