

ILLINOIS POLLUTION CONTROL BOARD
March 10, 1988

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 85-101
)
CAPITAL ENGINEERING)
AND MANUFACTURING COMPANY,)
an Illinois Corporation,)
)
Respondent.)

MS. NANCY J. RICH AND MR. GERALD T. KERR, ASSISTANT ATTORNEYS
GENERAL, APPEARED ON BEHALF OF THE COMPLAINANTS.

MR. MICHAEL F. DOLAN OF SEYFORTH, SHAW, FAIRWEATHER AND GERALDSON
APPEARED ON BEHALF OF THE RESPONDENTS.

OPINION AND ORDER OF THE BOARD (by Michael Nardulli)

This matter comes before the Board upon a July 9, 1985 complaint filed by the Environmental Protection Agency (hereinafter "Agency"), by and through its attorney, Neil F. Hartigan, Attorney General of the State of Illinois. The Respondent, Capital Engineering and Manufacturing Company, an Illinois Corporation (hereinafter "Capital Engineering"), has, for all times pertinent to this action, owned and operated a business at 14600 South Lincoln Avenue, Harvey, Cook County, Illinois. Respondent's Harvey facility is a large job shop which produces fabricated metal products from flat and rolled steel. In conjunction with the fabrication of metal products, Capital Engineering operates two shotblasters, each equipped with a baghouse, and a painting line. The facility is a source of both particulate and hydrocarbon emissions. Emissions sources at the plant include the shotblasters with baghouses, the painting line, the parking lot and several roads.

Respondent Capital Engineering is charged with the following:

- 1) violation of Section 9(a) of the Illinois Environmental Protection Act (hereinafter "Act"), Ill. Rev. Stat., ch. 111 1/2, para 1001 et seq. (1983), and all or part of Sections 201.142, 201.143, and 201.144 of the Air Pollution Regulations of the Pollution Control Board (hereinafter "Regulations"), 35 Ill. Adm. Code,

Subtitle B, Chapter I, Subpart C, by failing to obtain Agency construction and operating permits, since January 24, 1972, for each of two shotblasters equipped with baghouses.

2) violation of Section 9(a) of the Act and Section 215.301 of the Regulations by failing to obtain Agency construction and operating permits, since July 28, 1979, for its paint line, and

3) violation of Section 9(a) of the Act and Sections 212.306, 212.309 and 212.312 of the Regulations by failing to file and maintain with the Agency a minimum operating program, since July 28, 1979, for the roads and parking facilities located on the property of its Harvey plant.

On January 29, 1988, a public hearing was held on this matter. Prior to hearing, the parties submitted a Stipulation and Proposal for Settlement (Stipulation). The Stipulation is attached and adequately addresses the facts in this matter. Accordingly, this opinion will not contain the customary discussion of the issues.

The Board notes, though, that according to the Stipulation, Capital Engineering "is not admitting its liability for violations alleged in the Complaint." Also, the Stipulation states that Capital Engineering will receive a permit to operate each of two shotblasters equipped with baghouse and the painting line within thirty (30) days of the Board's Order accepting the settlement agreement.

In evaluating this enforcement action and proposed settlement agreement, the Board has taken into consideration all the facts and circumstances in light of the specific criteria delineated in Section 33(c) of the Act and finds the Stipulation and Proposal for Settlement acceptable under 35 Ill. Adm. Code 103.180. Accordingly, the Board orders Capital Engineering to comply with the Order set forth herein.

This Opinion and Order constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

It is the Order of the Illinois Pollution Control Board that:

- 1) The Board hereby accepts the Stipulation and Proposal for Settlement executed by Capital Engineering and the Illinois Attorney General concerning Capital Engineering's Harvey facility and filed with the Board on December 7, 1987. The Stipulation and the Proposal for

Settlement is attached hereto and incorporated herein.

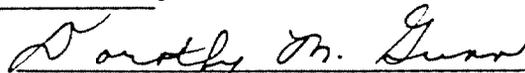
- 2) Capital Engineering shall pay \$1,250.00 of the total \$7500.00 contribution within 30 days of the Board's order accepting this stipulation followed by five subsequent payments of \$1,250.00 each for the next five successive 30-day periods. Such payment shall be made by certified check or money order payable to the Illinois Environmental Protection Trust Fund and mailed to:

Office of the Attorney General
Environmental Control Division
100 W. Randolph Street - 12th Floor
Chicago, IL 60601

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1985 ch. 111 ¹/₂ par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 10~~th~~ day of March, 1988, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

2. Respondent, Capital Engineering and Manufacturing Company ("Capital"), is an Illinois corporation which has at all times pertinent hereto transacted business in the State of Illinois. At all times relevant to this action, Capital has caused or allowed the operation of a business located at 14600 South Lincoln Avenue, Harvey, Cook County, Illinois ("the Facility"). Capital's main business office is located at 5837 South Ashland Avenue, Chicago, Illinois.

3. Capital's Harvey facility is a small business which produces welded fabricated metal parts from steel plate. Emission sources at the Facility include two shotblasters with baghouses, a painting line, a parking lot and one road.

II. FACTS RELATING TO THIS LITIGATION

4. The Attorney General filed the complaint in the present action on behalf of the Agency on July 9, 1985. The complaint contains three counts and alleges that Capital has caused or allowed violations of the Illinois Environmental Protection Act ("Act"), Ill.Rev.Stat., ch. 111-1/2, par. 1001 et seq. (1985), and the Air Pollution Regulations of the Pollution Control Board ("Regulations"), 35 Ill. Adm. Code, Chapter I, Subtitle B (1984). The complaint further alleges that some of the violations at the site have been continuously occurring since 1972.

5. The nature of the alleged violations contained in the Agency's complaint may be summarized as follows:

Count I: Capital's failure since January 24, 1972 to obtain Agency construction and operating permits for each of two shotblasters equipped with baghouses, in violation of Section

9(a) of the Act and Sections 201.142, 201,143 and 201.144 of the Air Pollution Regulations.

Count II: Capital's failure since July 28, 1979 to obtain Agency construction and operating permits for its paint line, in violation of Section 9(a) of the Act and Section 215.301 of the Air Pollution Regulations.

Count III: Capital's failure since December 31, 1982 to file and maintain with the Agency a minimum operating program for the roads and parking facilities located on the property at its Harvey facility, in violation of Section 9(a) of the Act and Sections 212.306, 212.309, 212.310 and 212.312 of Air Pollution Regulations.

III. COMPLIANCE

6. Capital neither admits nor denies that the violations set forth above have occurred.

7. The Agency and Capital agree that in order to be of the greatest economic and social value, Capital's facility must be operated in accordance with the Act and Air Pollution Regulations.

8. The Agency and Capital agree that compliance with the Act and Air Pollution Regulations in the manner stated in this settlement stipulation is technically practicable and economically reasonable.

NOW THEREFORE, the Agency and Capital hereby stipulate and agree to the following compliance program:

A. Capital shall apply for Agency permits for the following equipment at the Facility within 30 days of the Board's order accepting this proposed settlement agreement:

1. Each of the two shotblasters equipped with baghouses as identified in Count I of the Agency's complaint; and

2. The painting line as identified in Count II of the Agency's complaint.

B. Capital shall file and maintain with the Agency a minimum operating program in accordance with Section 212.306 of the Air Pollution Regulations of the Pollution Control Board, 35 Ill. Adm. Code, Chapter I, Subtitle B, Section 212.306 (1984), for the roads and parking facilities located at the Facility.

C. Capital shall allow representatives of the Illinois Environmental Protection Agency access to the site at reasonable times for the purpose of conducting compliance inspections, in accordance with the provisions of the Act and subject to Capital's constitutional rights.

D. Capital shall pay a contribution in the amount of Seven-Thousand Five Hundred Dollars (\$7,500.00) to the Illinois Environmental Protection Trust Fund. The amount of the contribution was reached after consideration of both aggravating and mitigating factors. Aggravating factors include the relative ease with which compliance can be achieved and the Facility's location in an area that has failed to meet ambient air quality standards. Mitigating factors include Capital's post-filing willingness to achieve compliance, the economic conditions prevailing in the area, the complexity of the applicable rules and the Agency's delay in pursuing an enforcement action subsequent to its inspection of the Facility. Capital shall pay \$1,250.00 of the contribution within 30 days of the Board's order accepting this stipulation followed by five subsequent payments of \$1,250.00 each for the next five successive 30-day periods. Such

payment shall be made by certified check or money order payable to the Illinois Environmental Protection Trust Fund and mailed to:

Office of the Attorney General
Environmental Control Division
100 West Randolph Street, 12th Flr.
Chicago, Illinois 60601

The name and number of the case shall appear on the check.

WHEREFORE, Complainant and Respondent jointly request that the Board adopt and accept the foregoing Stipulation and Settlement Agreement as written.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

CAPITAL ENGINEERING AND
MANUFACTURING COMPANY

By: Joseph Svoboda
Joseph Svoboda
Manager, Enforcement

By: Virginia M. Zemel

DATED: December 1, 1987

DATED: 3 Nov. 1987

gkstln