

ILLINOIS POLLUTION CONTROL BOARD  
September 4, 1987

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
Petitioner, )  
 )  
v. ) PCB 87-52  
 )  
BATTERY BUILDERS, INC., an )  
Illinois Corporation, )  
 )  
Respondent. )

FRED ROTH APPEARED ON BEHALF OF RESPONDENT.

GERALD T. KAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT.

OPINION AND ORDER OF THE BOARD (by J. Marlin):

This matter comes before the Board on an April 28, 1987, Complaint brought by the Illinois Environmental Protection Agency (Agency) against Battery Builders, Inc. (Battery). The Complaint alleges that Battery operated its Naperville manufacturing facility without an operating permit between June 1, 1973, and November 29, 1981 and that Battery failed to comply with standard permit conditions between November 30, 1981, and March 31, 1986.

Hearing in this matter was held July 28, 1987, at the Board offices in Chicago. No members of the public attended.

At hearing, the parties introduced 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. Battery admits to the violations and agrees to pay a penalty of \$2,500 to the Environmental Protection Trust Fund.

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 Battery 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 Battery Builders, Inc. (Battery) and the Illinois Environmental Protection Agency filed with the Board on July 6, 1987. The terms and condition of the Stipulation and Proposal for Settlement, which is attached hereto, are incorporated into this Order.
- 2) Battery has violated:
 

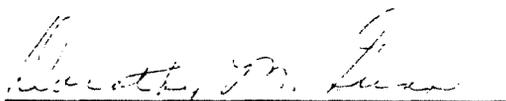
Count I: Section 9(b) of the Illinois Environmental Protection Act (Act), Ill. Rev. Stat. 1985, ch. 111 1/2, par. 1009(b) and 35 Ill. Adm. Code 201.144.

Count II: Section 9(b) of the Act.
- 3) Battery shall, by certified check or money order payable to the State of Illinois and designated for deposit into the Environmental Protection Trust Fund, pay the sum of \$2,500 (Two Thousand Five Hundred Dollars). The sum shall be paid within 30 days of the date of this Order. The payment shall be mailed to:

Fiscal Services Division  
 Illinois Environmental Protection Agency  
 2200 Churchill Road  
 Springfield, IL 62706

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 14<sup>th</sup> day of September, 1987, by a vote of 6-0.

  
 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board



"Board") approves and disposes of this matter on each and every-one of the terms and conditions of the settlement set forth herein.

#### STATEMENT OF FACTS

1. Complainant, Illinois Environmental Protection Agency (hereinafter "Agency"), is an administrative agency established in the executive branch of the State government by Section 4 of the Illinois Environmental Protection Act (hereinafter "the Act"), Ill. Rev. Stat., Ch. 111-1/2, par. 1001 et seq., 1985, and charged, inter alia, with the duty of enforcing the Act, pursuant to Title VIII thereof and recovering civil penalties pursuant to Title XII thereof.

2. Respondent, Battery Builders, Inc. (hereinafter "Battery Builders") an Illinois corporation, has caused or allowed the operation of a business located at 31 West 328 91st Street, Naperville, Will County, Illinois.

3. Battery Builders engages in the manufacturing of industrial batteries at this facility.

4. From June 1, 1973 until November 20, 1981 Battery Builders allowed the operation of its facility without a valid Agency operating permit, in violation of Section 9(b) of the Act and Section 201.144 of the Air Pollution Regulations of the Pollution Control Board.

5. On November 20, 1981 Battery Builders was issued a valid Agency operating permit for its facility. The permit allowed the

operation of the following emission sources and/or air pollution control equipment: one oxide tank and one paste mixer with baghouse, two grid casting machines and furnaces and one three process operation as described in the permit application.

6. Attached to the operating permit were the Agency's Standard Operating Conditions, including standard condition number seven which stated as follows:

The permittee shall maintain a maintenance record on the premises for each item of air pollution control equipment. This record shall be available to any agent of the Environmental Protection Agency at any time during normal working and/or operating hours. This record shall show, as a minimum, the:

- (a) date of performance of, and nature of, preventive maintenance, and
- (b) date of any malfunction or breakdown and the nature of repairs to, or corrective measures performed to maintain the performance of the equipment.

6. For the period from November 20, 1981, until March 31, 1986, Respondent failed to maintain a maintenance and malfunction record for its baghouse as called for in Standard Operating Condition number seven in violation of Section 9(b) of the Act.

7. Since April 1, 1986 and upto and including the date of filing of the complaint in this action Battery Builders has been in compliance with Standard Operating Condition number seven.

#### PROPOSAL FOR SETTLEMENT

As a result of the settlement discussions between the parties and actions taken by the Respondent, the parties believe that the public interest will be best served by resolution of

this enforcement action under the terms and conditions provided herein. This proposal for settlement is expressly conditioned upon and effective only with the approval thereof in all respects by the Board. All statements contained herein are agreed to for purposes of settling this action only and shall be null and void and of no effect in any further proceeding or cause of action if the Board does not approve this proposal for settlement in its entirety.

#### TERMS OF SETTLEMENT

Battery Builders and the Agency have agreed to the following Terms of Settlement. These terms shall be in full settlement of the action filed herein by the Agency and Respondent's liability for all violations alleged in the Complaint.

1. The Agency contends and the Respondent admits the facts as set out in the Complaint constitute the following violations of the Act and the Board Regulations:

Count I: Section 9(b) of the Act  
and 35 Ill. Adm. Code 201.144.

Count II: Section 9(b) of the Act.

2. Respondent agrees to abide by all terms and conditions of all operating permits issued by the Agency.

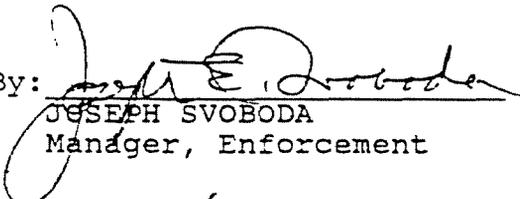
3. Respondent agrees to cease and desist from any and all violations of the Illinois Environmental Protection Act and Rules and Regulations of the Illinois Pollution Control Board.

4. The parties enter into this Stipulation and Proposal for Settlement and Respondent agrees to pay a penalty specified in this paragraph in order to avoid the substantial costs, inconveniences and uncertainties of further litigation. In order to resolve this dispute and as a condition of settlement Respondent agrees to pay a penalty of two thousand five hundred dollars (\$2,500.00) into the Environmental Protection Trust Fund within 30 days from the date on which the Board adopts a final order approving, accepting and incorporating this Stipulation and Proposal for Settlement. The Agency deems the payment to be appropriate to aid in the enforcement of the Act under the circumstances of this case. Factors bearing on this penalty amount include the prolonged period of non-compliance and the ease with which compliance could have been achieved.

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

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

BATTERY BUILDERS, INC.

By: 

JOSEPH SVOBODA  
Manager, Enforcement



JAMES E. HANSLIK  
President

DATED: 6/25/87

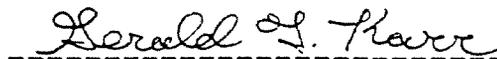
CERTIFICATE OF SERVICE

I, GERALD T. KARR, an attorney hereby certify that I caused true and accurate copies of the attached Stipulation and Proposal for Settlement, to be served upon,

Frederick E. Roth  
2001 Midwest Road  
Suite 107 A  
Oak Brook, Illinois 60521

Patricia F. Sharkey  
Hearing Officer  
6236 North Lakewood  
Chicago, Illinois 60660

by causing said copies to be mailed to the addresses indicated above by first class mail postage pre-paid, from 100 West Randolph Street, Chicago, Illinois 60601 on July 6, 1987.

  
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GERALD T. KARR