

ILLINOIS POLLUTION CONTROL BOARD
July 9, 1981

CITIZENS FOR A BETTER ENVIRONMENT, ET AL.,)
)
Complainants,)
)
v.) PCB 80-178
)
GENERAL IRON INDUSTRIES, INC.,)
)
Respondent.)

MR. ROBERT GOLDSMITH APPEARED ON BEHALF OF COMPLAINANT.

MR. ROBERT J. LIFTON, BILANDIC, NEISTEIN, RICHMAN, HAUSLINGER & YOUNG, APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by I. Goodman):

On October 1, 1980 Citizens for a Better Environment (CBE) filed this complaint against General Iron Industries, Inc. (General Iron), alleging violations of Sections 9(a) and 9(c) of the Illinois Environmental Protection Act (Act) and Rules 102 and 502(a) of Chapter 2 of the Board's regulations concerning air pollution. Hearing was held on May 22, 1981, at which the parties presented a stipulation of facts and proposal for settlement for the Board's consideration pursuant to Rule 331 of the Board's Procedural Rules. Testimony as to the proposed settlement was heard from one citizen witness. The Board has received no written public comment in this matter.

There are a number of legal and procedural deficiencies in the proposed settlement agreement as presented to the Board. The most obvious problem is the fact that the proposed stipulation contains conditions referring to and is signed by five citizens who are not parties to this proceeding. However, on review of the situation presented by this case, the Board has determined that acceptance of the proposed settlement agreement would be the most reasonable resolution of the environmental problem presented therein and that no person would be prejudiced by such acceptance. The Board shall, therefore, on its own motion, correct certain deficiencies and waive all of the defects contained in the proposed settlement and accept the settlement as the resolution of this matter.

The problem here occurred, as was cited in the stipulation of facts, when General Iron accumulated several large piles of oily machine shop turnings at its Magnolia Street facility in anticipation of processing and selling them to Wisconsin Steel Company.

Wisconsin Steel Company subsequently shut down its foundry and General Iron found itself unable to move the turnings out of the facility. Subsequently, due to spontaneous combustion or to other unknown reasons, the piles of oily turnings began burning and continued to burn notwithstanding numerous attempts by the Chicago Fire Department to extinguish the fires. General Iron thereafter purchased fire hoses with which it has continuously applied water to the piles of scrap in order to prevent and retard combustion. During the initial period of uncontrolled burning, certain individuals in the area complained to CBE concerning the smoke and odor. The result was the instant complaint filed by CBE, apparently on behalf of the complaining citizens.

In the proposed settlement agreement the parties agree that this action shall be dismissed without prejudice in consideration of certain future rights and duties of the parties with respect to the pollution problem. General Iron agrees to refrain from storing combustible oil-coated machine shop turnings in the future and to use its best efforts to sell and remove all such turnings presently located at the Magnolia facility while continuing to apply water to the existing piles for the purpose of retarding combustion. CBE and the residents agree not to pursue this matter so long as General Iron fulfills its duties under the proposed stipulation and agree that no fine or other monetary payments need be made by General Iron in connection with this action. The rights and duties as contained in the proposed settlement agreement are recited in considerable detail; however, the foregoing is a fair summary of its terms.

The Board finds that, notwithstanding the legal and technical deficiencies in the proposed settlement agreement, the settlement agreement constitutes a fair and reasonable resolution of the problem, particularly considering the inadvertent nature of the source of the pollution and the likelihood that it will not recur. The Board will therefore accept the proposed settlement agreement and dismiss the action herein without prejudice, but will order the parties to execute their duties under the agreement. To this end the Board joins all nonparties who executed the stipulation and the settlement agreement.

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

ORDER

1. The following named persons are hereby joined as complaining parties to this action pursuant to Procedural Rule 303(c): Joseph L. Strumidlowski, 1506 N. Elston Avenue, Chicago, Illinois; Anne Brennan, 1269 W. LeMoyné Street, Chicago, Illinois; John T. Woltjen, 1507 N. Elston Avenue, Chicago, Illinois; Bonnie Foley, 1507 N. Elston Avenue, Chicago, Illinois; and Sam Delgado, 1524 N. Throop, Chicago, Illinois.


2. General Iron Industries, Inc., Citizens for a Better Environment, and the five persons named in Paragraph 1 above shall execute their duties pursuant to the settlement agreement filed before the Board on April 17, 1981, which settlement agreement is hereby incorporated by reference as if fully set forth herein.

3. The complaint is hereby dismissed without prejudice.

IT IS SO ORDERED.

Mr. Anderson abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control board, hereby certify that the above Opinion and Order was adopted on the 4th day of July, 1981 by a vote of 4-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board