

ILLINOIS POLLUTION CONTROL BOARD  
June 28, 1977

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 )  
 v. ) PCB 76-79  
 )  
 )  
 CITY OF CHICAGO, a municipal )  
 corporation, )  
 )  
 Respondent. )

MR. MICHAEL A. BENEDETTO, JR., ASSISTANT ATTORNEY GENERAL, APPEARED FOR THE COMPLAINANT;  
MR. HENRY F. WEBER, ASSISTANT CORPORATE COUNSEL, APPEARED FOR THE RESPONDENT.

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

This matter is before the Board on a Complaint filed by the Environmental Protection Agency (Agency) on March 19, 1976. The Complaint alleges that the City of Chicago violated Rule 103(b)(2) of Chapter 2, Part I of the Air Regulations and Section 9(b) of the Environmental Protection Act (Act) in that Respondent caused its coal-fired boilers, used in conjunction with the Roseland Pumping Station, to operate without having obtained the requisite operating permits. A hearing was held on June 11, 1976 at which time a Stipulation and Proposed Settlement was submitted for the Board's approval. Additional testimony was offered by the City for consideration as mitigating factors in the Board's final determination.

The Stipulated facts indicate the City owns and operates a water pumping facility known as the "Roseland Pumping Station". In 1970 the City contracted to replace the Station's four coal-fired boilers with four gas-steam generators. One was replaced in 1971 but specified performance was not attained. In September, 1974, the Agency sent the City a warning that its three remaining coal-fired boilers were in operation without the necessary permits. On January 27, 1976 the City applied for the permits but was rejected due to excessive emissions. A variance from the particulate limitations filed March 3, 1976 was subsequently withdrawn to avoid duplication with the subject matter of this Complaint. Respondent admits it violated Rule 103(b)(2) of Chapter 2, Part I of the Air Regulations. The Board

finds the City of Chicago in violation of Rule 103(b)(2) of Chapter 2, Part I of the Air Regulations for failing to obtain the requisite Agency permit.

The City sets forth in the settlement a construction program initiated in October, 1976 (with a schedule set forth therein), whereby three gas-steam generators will be substituted, one by one, for the three coal-fired boilers now in operation. Upon removal of the last boiler scheduled for January 31, 1978, the Station is expected to be in full compliance with Board Regulations. The City has agreed it will apply for all construction and operating permits relative to the generation of power within 30 days of the Board's Order herein.

Whether or not to impose a penalty was not addressed in the Settlement Proposal. The Board believes a penalty is necessary here in order to deter unnecessary violations of the Regulations and to uphold the integrity of the permit system. In determining the amount, the Board considers the City's status as a governmental body to be a mitigation factor. We recognize the delay in the new generator's installation and operation resulted from the City's contracting restrictions. More importantly, any monetary penalty imposed will ultimately be paid by the taxpayer rather than by those officials responsible for the violation. Therefore, the Board will assess the City a \$300.00 penalty for the violation found herein.

The Board hereby accepts the Proposed Settlement and Stipulation as presented by the parties, and it is incorporated by reference as if fully set forth herein. The Board orders the parties to carry out the provisions of the agreed upon Settlement as set forth therein.

#### ORDER

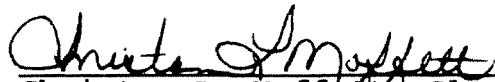
It is the Order of the Pollution Control Board that:

1. The City of Chicago is in violation of Rule 103(b)(2) of Chapter 2, Part I of the Air Regulations.
2. The City of Chicago shall file within 30 days of the date of this Order application for the necessary Agency permits required for its Roseland Pumping Station.
3. The City of Chicago shall comply with all the terms of the agreed upon Stipulation, which is incorporated by reference as if fully set forth herein.

4. The City of Chicago shall within 30 days of the date of this Order pay a penalty of \$300.00 for violation of the Regulations. Said penalty payment by certified check or money order shall be made payable to:

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

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 28<sup>th</sup> day of June, 1977 by a vote of 4-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board