

ILLINOIS POLLUTION CONTROL BOARD
July 24, 1980

ENVIRONMENTAL PROTECTION AGENCY,)
)
 Complainant,)
)
 v.) PCB 78-137
)
 CITY OF SALEM,)
)
 Respondent.)

INTERIM ORDER OF THE BOARD (by J. Anderson):

At a hearing held on March 14, 1980, at which no members of the public were present, the parties to this action outlined a proposed stipulation and settlement agreement which they intended to later reduce to writing as required by Procedural Rule 331(a). The parties had not agreed upon an appropriate penalty at that time, and represented that they intended to submit briefs on this issue to the Board (R. 3,5,7). However, the parties' Statement of Stipulated Agreement, filed April 9, 1980 contains a proposed stipulated penalty of \$2500.


The Board rejects this Stipulated Agreement on two grounds. First, the Board disapproves of the procedure followed here of amending a significant and substantive provision of the settlement subsequent to hearing, contrary to Rule 331(b). An additional hearing should have been held. The obvious purpose of the rule is to give members of the public every opportunity to comment on these matters, whether or not they choose to attend.

Second, an additional hearing on the penalty issue, or the briefs the parties originally proposed submitting to the Board, would have alleviated the Board's other problem with this agreement. The record as it relates to the size of the stipulated penalty is insufficient to allow the Board to make an intelligent evaluation of this penalty.

The record in this case shall be completed and closed no later than November 7, 1980. On or before that date, the transcript from any hearing held on the penalty or any other disputed issue(s) in this action shall be filed with the Board. Should the parties choose to resubmit their stipulation and to leave the penalty issue to the Board's discretion, briefs which shall include all pertinent mitigating and aggravating circumstances shall be simultaneously filed with the Board on or before November 7.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Order was adopted on the 24th day of July, 1980 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board