

ILLINOIS POLLUTION CONTROL BOARD

February 7, 1974

Environmental Protection Agency )  
 )  
 v. ) PCB 73-200  
 )  
 Sam Kanter, Sam Cohen, and Benjamin Kanter, )  
 d/b/a Standard Metal Company )

Douglas T. Moring, Assistant Attorney General for Complainant.  
I. Walter Deitch, Attorney for Respondents.

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

On May 9, 1973, the Illinois Environmental Protection Agency (EPA) filed its Complaint alleging violations of Section 9(a) of the Illinois Environmental Protection Act (Act) and Rule 3-3.111 of the Rules and Regulations Governing the Control of Air Pollution (Rules and Regulations). Specifically, it was asserted that Respondents were discharging excessive amounts of hydrocarbons and smoke into the air. On September 11, Respondents filed a motion to strike and dismiss the Complaint. This was denied by the Board on September 20, 1973, except that Respondents were given leave to amend the Complaint regarding the matter of parties. Respondents, however, have chosen not to do so.

Respondents own and operate a facility for the reclamation of non-ferrous metals and alloys. A furnace is used to reclaim aluminum from aluminum and dye-cast breakage. The building housing the furnace from which the emissions emanate is located on the west side of Wentworth Avenue between 40th and 41st Streets in Chicago, Cook County, Illinois. The building is bordered on the north by an automobile rebuilding yard, on the east by the Dan Ryan Expressway, on the south by a truck yard, and on the west by Standard Metal Company's yard.

A hearing was held on October 25, 1973; process weight calculations and emissions were stipulated to by the parties. The parties agreed that the process weight was 450 pounds per hour. Estimated emissions were 3.26 pounds per hour, while allowable emissions under Rule 3-3.111 of the Rules and Regulations are 1.5 pounds per hour (R-5,6). Respondents were given 60 days to gather data and develop a program of compliance (R-6).

The second and final hearing was held on January 4, 1974, in which a Stipulation was made part of the record. The Stipulation reiterated the emission rates set out in the previous hearing and included an agreement by Respondents to install an afterburner on the furnace to bring it into compliance "subject to the issuance

of the necessary permits by the Agency and the City of Chicago and the availability of fuel to operate the afterburner" (R-7, 8). Little additional evidence was made part of the hearing record. No environmental impact statement was introduced; no date for installation or compliance was entered into evidence. The parties did stipulate that Respondents have already sought and received bids for the afterburner (R-8). In the final paragraph of the Stipulation (paragraph 8 at R-8), Respondents argued that they had not violated the Act; or in the alternative, if they were in violation, such violations were minimal. Respondents further argued that the EPA had failed to introduce any evidence of violation of the Act or Rules and Regulations.

We hold that, in light of the Stipulation of emission dates presented in both hearings, Respondents violated Section 9(a) of the Act and Rule 3-3.111 of the Rules and Regulations. Respondents submitted no evidence to show that compliance with Act and Rules and Regulations would impose upon them an arbitrary or unreasonable hardship.

This constitutes the findings of fact and conclusions of law of the Board.

#### ORDER

IT IS THE ORDER of the Pollution Control Board that:

1. Respondent shall pay a penalty of \$200.00 for the violations of the Act and Rules and Regulations as described in this Opinion. Payment shall be by certified check or money order made payable to the State of Illinois, Fiscal Services Division, Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706. Payment shall be mailed within 35 days of the adoption of this Order.

2. Respondents cease and desist by June 1, 1974, from the violations of the Act and Rules and Regulations established in this action.

3. Respondents achieve compliance through the installation of the afterburner by June 1, 1974.

4. Respondents report to EPA on a monthly basis beginning on March 1, 1974, their progress under the compliance program. Compliance with the Act and Rules and Regulations and the transmittal of such information to the EPA shall be the condition precedent to the termination of Respondents' monthly reporting requirement.

Mr. Seaman abstains.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 7<sup>th</sup> day of February, 1974, by a vote of 4 to 0.

  
Christan L. Moffett, Clerk