

ILLINOIS POLLUTION CONTROL BOARD  
October 11, 1973

ENVIRONMENTAL PROTECTION AGENCY	)	
COMPLAINANT	)	
	)	
	)	
	)	
v.	)	PCB 72-139
	)	
	)	
NORGE, DIVISION OF FEDDERS, INC.	)	
RESPONDENT	)	
	)	

THOMAS J. IMMEL, ASSISTANT ATTORNEY GENERAL, on behalf of the ENVIRONMENTAL PROTECTION AGENCY;  
JOSEPH S. WRIGHT, JR., on behalf of NORGE.

OPINION AND ORDER OF THE BOARD (by Mr. Marder)

This is an enforcement action filed by the Environmental Protection Agency against Norge, Division of Fedders, Inc., on April 5, 1972. The complaint alleges violations of the following:

- A) Section 9 (a) of the Environmental Protection Act
- B) Rule 2-2.53 of the Rules and Regulations Governing the Control of Air Pollution (hereinafter Air Rules)
- C) Section 9 (B) of the Environmental Protection Act and Rule 3-2.100 of the Air Rules
- D) 9 (c) of the Environmental Protection Act and Rule 502 (a) of the Air Pollution Regulations
- E) Rule 3-3.122 of the Air Rules

On August 6, 1973, a hearing was held at Marion, Illinois. At that time a stipulation was entered into by the respective parties.

This case has been active for an inordinate period of time. The case was filed on April 5, 1972, and finally came to hearing on August 6, 1973...a period of sixteen months. Difficulties in arriving at a hearing date and technical difficulties in obtaining permits caused much of the delay. The main point all parties must be concerned with is that a stipulation entered into by the Agency

and a Respondent is not necessarily a prelude to favorable Board decision. In many cases the terms of a stipulation are enacted before the Board renders its decision. Although this quick action on the part of a Respondent is commendable in that, in most cases, it tends to abate pollution, it should not be considered a "final order." It is the responsibility of the parties concerned, as well as that of the Board, to take action on a case as soon as all the information is available.

In the instant case the Board feels that the steps taken under stipulation to alleviate the aforementioned allegations, along with the fine stipulated, will result in an equitable settlement. This settlement will serve the dual purpose of insuring the area residents protection from pollution that they are guaranteed, while imposing on Norge a penalty for past infractions. It is vital to mention that citizen complaints have diminished markedly as a result of steps already taken by Norge. It is part of the record (R. 6) that no citizens were present at the time of the hearings.

In regard to the various complaints brought against Norge, the following actions have been stipulated or have occurred.

1. Norge had in operation on and before April 4, 1972, dual coal-fired boilers for its heating and process requirements. These boilers were the cause of part of the section 9 (a) violation, the 2.253 and the 3-3.122 violations. No evidence was presented showing calculated emission rates of Ringelmann results. Testimony (Stipulation 4) was entered as to citizen complaints and Agency observations of dense smoke.

2. Norge effected the installation of an over fire system on the above boiler in September, 1971. This installation was made without an Agency permit, thus the violation of 9 (b) and Rule 3-2.100. This installation was made prior to this complaint. Although it is a violation, it was a show of good faith by Norge to attempt to reduce its emissions before the onset of an Agency complaint. Even in the absence of a stipulation, the fine for this offense would be minimum, if anything at all.

3. Norge had on or before April 4, 1972, practiced open burning in violation of Section 9 (c) and Rule 502 (a). This procedure was used to incinerate paint from used paint racks as a sort of salvage operation.

4. An additional allegation was fostered by storage of hot ashes outdoors to facilitate cooling.

In order to eliminate complaints and bring its facilities into compliance with all applicable rules and regulations, Norge has accomplished the following:

1. Converted its dual coal-fired boilers to gas. These boilers may also burn fuel oil if required.
2. Constructed and put into operation an incinerator for its paint racks, with an afterburner and enclosing building.
3. The practice of storing hot ash outside was stopped, and now that gas is used as fuel this will cease to be a problem.

Two other problems warrant discussion.

Norge is presently utilizing a lacquer paint system. These hydrocarbon emissions are now governed by Rule 205 (f) and 205 (f) (2) (d) of the Air Rules. Norge has committed itself to adherence to said rules (R. 10). In fact, Norge contemplates compliance well ahead of the May 30, 1975, deadline.

Norge also maintains an old uncontrolled coal-fired boiler which it wishes to use in the event its oil-fired boiler becomes inoperative. It will be part of this order that said boiler will not be used unless proper relief is obtained from the Illinois Pollution Control Board.

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

ORDER

IT IS THE ORDER of the Pollution Control Board that:

1. Norge, Division of Fedders, Inc., is found to be in violation of the sections and rules mentioned above. Respondent shall pay to the State of Illinois the sum of \$2,000 within 35 days from the date of this Order. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.
2. Norge, Division of Fedders, Inc., shall submit reports at 60-day intervals, commencing with the date of this order, regarding its progress as to intended compliance with Rule 205 (f) (2) (d). These reports will be pursuant to Norge's compliance plan and project completion schedule previously filed with the Environmental Protection Agency.
3. Norge, Division of Fedders, Inc., shall not operate its uncontrolled coal-fired boiler unless proper relief is ob-

tained from the Illinois Pollution Control Board or proper controls are instituted and accepted by the Environmental Protection Agency.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 11<sup>th</sup> day of October, 1973, by a vote of 4 to 0.

Christan L. Moffett