

ILLINOIS POLLUTION CONTROL BOARD  
November 16, 1995

PEOPLE OF THE STATE	)	
OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 96-80
	)	(Enforcement-Air)
BEHR PRECIOUS METALS, INC.,	)	
an Illinois corporation,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD:

This matter comes before the Board upon a one-count complaint filed October 13, 1995, by the Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency and the People of the State of Illinois, against Behr Precious Metals, Inc. (Behr), an Illinois corporation, located at 1100 Seminary Street, Rockford, Winnebago County, Illinois. The complaint alleges that Behr has violated Sections 9(a) and 9(b) of the Illinois Environmental Protection Act (Act), 415 ILCS 5/9(a), 5/9(b) and 35 Ill. Adm. Code 201.142 and 201.143 by constructing and operating its metal recovery incinerator without the proper permits since 1982.

Pursuant to 415 ILCS 5/31(a)(2), the parties filed a joint motion requesting relief from the Act's hearing requirement on October 13, 1995. The Board published a notice of the waiver on October 18, 1995; no objection to the granting of the waiver was received. Waiver of hearing is hereby granted.

The parties filed a Stipulation and Settlement Agreement on October 13, 1995. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Behr admits the alleged violations and agrees to pay a civil penalty of ten thousand dollars (\$10,000.00).

The Board finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180. This settlement agreement in no way affects respondent's responsibility to comply with any federal, state or local regulations, including but not limited to the Act and the Board's pollution control regulations.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

- 1) The Board hereby accepts the Stipulation and Settlement Agreement executed by the People of the State of Illinois and Behr Precious Metals, Inc., an Illinois corporation, located at 1100 Seminary Street, Rockford, Winnebago County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) Within sixty (60) days of the entry of the stipulation, Behr shall submit to the Agency a complete operating permit application. Such permit application shall include any and all relevant information regarding the incinerator at the facility as specified by 35 Ill. Adm. Code 201.157.
- 3) If Behr does not have an operating permit for the incinerator within 120 days of the date it submits the operating permit application for the incinerator to the Agency, Behr shall cease operation of the incinerator until such time as respondent obtains Agency permitting authorization to operate the incinerator.
- 4) Behr shall pay a civil penalty of ten thousand dollars (\$10,000.00) within 30 days of the date of this Order. Such payment shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund, and shall be sent by First Class mail to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
2200 Churchill Road  
P.O. Box 19276  
Springfield, IL 62794-9276

The certified check or money order shall clearly indicate on its face Behr's Federal Employer Identification Number 36-0787260 and that payment is directed to the Environmental Protection Trust Fund.

A copy of the payment check shall be sent to:

Zemeheret Bereket-Ab  
Assistant Attorney General  
Environmental Bureau  
100 W. Randolph St., 12th Floor  
Chicago, Illinois 60601

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in

subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

- 5) Behr shall pay an additional stipulated penalty of one hundred dollars (100.00) per day for each calendar day or portion thereof that Respondent continues to operate without Agency permitting authorization after the expiration of the 120 days described in Section XI, paragraph 3, herein.
- 6) Behr shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Board Member J. Theodore Meyer dissented.

Section 41 of the Environmental Protection Act (415 ILCS 5/41) provides for the appeal of final Board orders within 35 days of the date of service of this order. (See also 35 Ill. Adm. Code 101.246, Motion for Reconsideration.)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 1995, by a vote of \_\_\_\_\_.

\_\_\_\_\_  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board