

ILLINOIS POLLUTION CONTROL BOARD  
February 14, 1973

ENVIRONMENTAL PROTECTION AGENCY )  
 )  
 ) #72-390  
 v. )  
 )  
 CHICAGO HEIGHTS GRAY IRON FOUNDRY, )  
 INC. )

HERMAN R. TAVINS, ASST. ATTORNEY GENERAL, ON BEHALF OF ENVIRONMENTAL PROTECTION AGENCY  
MAURINO R. RICHTON, RICHTON & COOK, ON BEHALF OF CHICAGO HEIGHTS GRAY IRON FOUNDRY, INC.

OPINION AND ORDER OF THE BOARD (BY SAMUEL T. LAWTON, JR.):

Complaint was filed against Chicago Heights Gray Iron Foundry, Inc. charging that Respondent, in the operation of its facility, emitted particulate matter so as to cause air pollution, in violation of Section 9(a) of the Act and Rule 2-2.54 of the Rules and Regulations Governing the Control of Air Pollution, between October 8, 1971 and September 29, 1972, the date of the filing of the complaint. Respondent is also charged with violation of Section 9(b) of the Act in having installed equipment capable of causing air pollution or designed to control it without a permit. The entry of a cease and desist order and penalties in the maximum statutory amount are sought.

Hearing was held on January 6, 1973 at which time the essential allegations of the complaint were admitted by Respondent, through its counsel, except to the extent that while installation of certain equipment had been made without a permit, the necessary permit was subsequently obtained (R. 6 and 7). As a consequence, the Environmental Protection Agency presented no evidence in support of the allegations.

Witnesses were introduced on behalf of the Respondent, who testified with respect to the financial straits of the Respondent resulting, in part, from an embezzlement by an employee. Notwithstanding these conditions, it appears that Respondent has made a conscientious effort to bring the facility into compliance.

Since nothing appears in the record to indicate the extent to which air pollution was caused by Respondent's operation prior to the installation of abatement equipment, or the intensity of particulate emissions in violation of the Rules, the Board does not have an adequate basis for the assessment of any penalty, and, accordingly, none will be assessed.

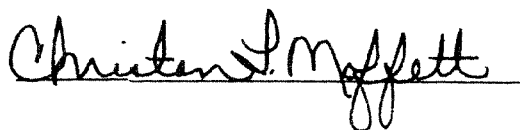
While the Board encourages the settlement of cases by agreement and the minimizing of hearings consequential thereto, if the Agency intends that penalties be assessed in settled matters, it will be necessary to have a record on which a penalty may be based.

We are not advised whether Respondent's operation is presently in compliance and, accordingly, will enter a cease and desist order.

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

IT IS THE ORDER of the Pollution Control Board that Chicago Heights Gray Iron Foundry, Inc. cease and desist from violation of the Rules and Regulations Governing the Control of Air Pollution and the Environmental Protection Act in the operation of its foundry.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on the 14<sup>th</sup> day of February, 1973, by a vote of 3 to 0.

  
Christan P. Moffett