

ILLINOIS POLLUTION CONTROL BOARD  
September 18, 1975

ENVIRONMENTAL PROTECTION AGENCY, )  
 )  
 Complainant, )  
 )  
 vs. ) PCB 72-164  
 )  
 ALLIED METAL COMPANY, )  
 )  
 Respondent. )

OPINION AND ORDER OF THE BOARD (by Mr. Henss):

On June 7, 1973 the Pollution Control Board found that Allied Metal Company had caused air pollution in violation of Section 9(a) of the Environmental Protection Act; had emitted an excessive amount of particulate matter from its plant in violation of Section 3-3.111 of the Rules and Regulations Governing the Control of Air Pollution; and had installed new equipment capable of emitting air contaminants to the atmosphere and equipment intended to control air contamination without a permit in violation of Section 3-2.110 of said Rules. A \$2,500 penalty was imposed for these three violations.

Upon review, the Appellate Court for the 1st Judicial District of Illinois affirmed the Order of the Pollution Control Board insofar as it relates to the Section 3-2.110 violation. However, the Appellate Court found "that the evidence is insufficient to support the Board's findings with respect to the Section 9(a) and Section 3-3.111 violations". The Court vacated the Board Order as to Section 9(a) and Section 3-3.111 and the penalty of \$2,500. The cause was remanded to the Board to consider the penalty, if any, regarding the Section 3-2.110 permit violation.

The Board finds from a review of the evidence that a penalty in the amount of \$750 would be appropriate for this particular permit violation. There is no doubt that the violation did occur since the evidence is clear that Allied installed two zinc melting pots without a permit. Section 3-2.110 was in effect and

set forth that permits are required for all equipment capable of emitting an air contaminant, i.e., particulate matter, dust, fumes, gas, mist, smoke or vapor or any combination thereof.

The only defense raised by Allied is that it never considered the melting pots to be emission sources because they would emit just a trifling amount of pollutants into the atmosphere. Neither the Board nor the Appellate Court accepted this as a defense. While Allied is not excused from the requirement of obtaining a permit we must nevertheless find, on the facts presented, that its violation is not flagrant. The Board concludes from the evidence that this is a rather ordinary permit violation in which Company officials had erroneously concluded that the Regulation did not apply to the Company operation. The record in this case does not call for a penalty beyond the ordinary. Respondent, of course, cannot entirely escape penalty for its transgression since such a course would make a mockery of the permit system in Illinois, the very cornerstone of the environmental control system. A penalty of \$750 is justified.

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

ORDER

It is the Order of the Pollution Control Board that:

Respondent Allied Metal Company shall pay to the State of Illinois by November 1, 1975 the sum of \$750 as a penalty for the violation of Section 3-2.110, Rules and Regulations Governing the Control of Air Pollution, as found in this proceeding. Penalty payment by certified check or money order payable to the State of Illinois shall be made to: Fiscal Services Division, Illinois EPA, 2200 Churchill Road, Springfield, Illinois 62706.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order was adopted the 18<sup>th</sup> day of September, 1975 by a vote of 4-0.

  
Christan L. Moffett, Clerk  
Illinois Pollution Control Board