

ILLINOIS POLLUTION CONTROL BOARD
October 24, 1972

ENVIRONMENTAL PROTECTION AGENCY)
)
) #72-287
 v.)
)
 JOHN SHUMWAY, CHARLES SHUMWAY,)
 DAVID SHUMWAY, d/b/a SHUMWAY)
 FOUNDRY)

MR. MELVYN A. RIEFF, ASSISTANT ATTORNEY GENERAL, ON BEHALF OF
ENVIRONMENTAL PROTECTION AGENCY
MESSRS. RICHARD H. SANDERS AND FRANCIS E. YOUSSE, ON BEHALF
OF RESPONDENTS

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

Complaint was filed against John Shumway, Charles Shumway, and David Shumway, d/b/a Shumway Foundry, alleging that between December 30, 1970 and the date of hearing, Respondents emitted particulate matter from their Batavia foundry cupola in excess of particulate limits in violation of Rule 2-2.54 of the Rules and Regulations Governing the Control of Air Pollution, continued in effect by Section 49(c) of the Environmental Protection Act and violated Section 9(a) of the Act. A cease and desist order and penalties in the maximum statutory amount are sought.

Hearing was held in Batavia on August 31, 1972, at which time a stipulation of settlement entered into between Respondent and the Environmental Protection Agency was submitted for the Board's consideration. Members of the public testified at the hearing, none of whom expressed opposition to the settlement proposal.

The stipulation recites that the foundry has been operated for almost 100 years by the Shumway family and presently employs approximately 22 persons. The foundry uses a thirty-eight foot cupola processing 3,600 pounds of pig iron, 5,000 pounds of new scrap iron and 1,000 pounds of coke per day, averaging 1-1/2 hours per day, five days per week.

No emission control equipment has been installed on the cupola. Violation of Rule 2-2.54 is admitted although Respondents contend that the cupola operates at a high combustion efficiency as a result of the "unique air feed system in use".

On April 18, 1967, Respondents submitted a Letter of Intent to the Air Pollution Control Board but no Air Contaminant Emission Reduction Program was ever filed.

In March, 1971, abatement equipment was ordered at a cost of \$50,000 for August, 1971 delivery. Variance petition was also filed in March of 1971 with this Board, which was dismissed by our Order of March 22, 1971, #71-45, 1 PCB 363, because of failure to allege the essential elements upon which a variance would be considered. No amended petition was filed. On July 8, 1971, Respondent received a permit from the Environmental Protection Agency for installation of an after-burner, cyclone and bag house. Difficulty with suppliers and fabricators has delayed installation of this equipment until September of 1972, notwithstanding repeated demands and inquiries from Respondents. The stipulation recites that installation of the pollution abatement equipment, pursuant to the July 8, 1971 permit, will be completed on or before September 15, 1972 and will bring Respondents' operation into compliance with applicable regulations by September 30, 1972, both of which dates have now passed. Respondents represent that they will apply for an operation permit by September 1, 1972. On the state of the record, we must assume that all permits have been obtained, all required installations have been made and that the operation is presently in compliance with applicable regulations. The stipulation provides that representatives of the Environmental Protection Agency may inspect the premises at reasonable times to ascertain whether the operation is in compliance with applicable regulations. The parties propose the payment of a penalty in the amount of \$1,200 for the violations charged and admitted.

We believe the terms of the stipulation represent a reasonable settlement of the case, particularly since Respondent's operation has presumably been brought into compliance. The \$1,200 penalty figure appears appropriate in consideration of all aspects of the case. We approve the stipulation of settlement as submitted.

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

IT IS THE ORDER of the Pollution Control Board, as follows:

1. The stipulation between Respondents and the Environmental Protection Agency is approved.
2. Penalty in the amount of \$1,200 is assessed against Respondents for violation of Rule 2-2.54 of the Rules and Regulations Governing the Control of Air Pollution, continued in effect by Section 49(c) of the Environmental Protection Act and for violation of Section 9(a) of

said Act. Payment shall be made within thirty-five days by certified check or money order payable to the State of Illinois and sent to: Fiscal Services Division, Illinois Environmental Protection Agency, 2200 Churchill Drive, Springfield, Illinois 62706.

3. Respondents, John Shumway, Charles Shumway and David Shumway, d/b/a Shumway Foundry, shall cease and desist the operation of their Batavia, Illinois foundry in violation of the Rules and Regulations Governing the Control of Air Pollution and the Environmental Protection Act, (Ill. Rev. Statutes, 1972, Chapter 111-1/2).
4. Respondents shall permit representatives of the Environmental Protection Agency to enter their premises at reasonable hours for inspection of the facilities to determine whether the operation is in compliance with the applicable statutory and regulatory provisions.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on the 24th day of October, 1972, by a vote of 5 to 0.

Christan Moffett
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