

ILLINOIS POLLUTION CONTROL BOARD  
June 21, 1973

ENVIRONMENTAL PROTECTION AGENCY    )  
  )       #72-221  
  )       #72-249  
  )       #72-250  
  )       #72-251  
  )       #73-118  
v.   )  
LACLEDE STEEL COMPANY                    )

LARRY R. EATON, SPECIAL ASST. ATTORNEY GENERAL, APPEARED ON BEHALF OF ENVIRONMENTAL PROTECTION AGENCY  
F. WILLIAM MCCALPIN and JOSEPH WEYHRICH; RANDALL ROBERTSON, APPEARED ON BEHALF OF LACLEDE STEEL COMPANY

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

Case #72-221 is an enforcement action filed by the Environmental Protection Agency against LaClede Steel Company. The amended complaint alleges that Respondent, in the operation of its Alton steel mill, and particularly in the operation of its electric melt shop, caused particulate emissions since July 1, 1970 and, specifically, on six dates in 1971, so as to cause air pollution in violation of Section 9(a) of the Environmental Protection Act.

The complaint likewise alleges that the same operation caused particulate emissions in violation of specified limits set forth in Rule 3-3.2132 of the Rules and Regulations Governing the Control of Air Pollution.

The second count of the complaint alleges that particulate emissions from the foregoing plant violated Rule 203(b) of the air pollution regulations of the Illinois Pollution Control Board since April 14, 1972, and that as a consequence thereof, Respondent was obliged to meet the particulate limitations set forth in Rule 203(a) of said Regulations.

Case #73-118 is a proceeding filed by Laclede Steel Company under Section 40 of the Environmental Protection Act seeking review of an operating permit denial for which Laclede had made application to the Agency on August 31, 1972.

The remaining proceedings are variance petitions seeking relief from various provisions of the Air Pollution Regulations and the Regulations Governing the Control of Air Pollution, as well as Section 9(a) of the Environmental Protection Act, all as will be set forth more fully below.

Subsequent to the filing of the complaint, variance petitions and appeal above set forth, extensive pre-trial discovery, motions, briefs, arguments, and four days of public hearings were held, after which the parties entered into a stipulation with the view of disposing of pending matters before the Board. The stipulation provides as follows:

"Subject to the conditions hereinafter set forth, Complainant, Environmental Protection Agency, and Respondent, Laclede Steel Company, stipulate and agree as follows:

1. Since 1969 or earlier Respondent has been engaged in a program to expand and improve its system for controlling emissions from its electric melt shop. (The term electric melt shop as used herein means the facility at Respondent's Alton plant containing its two electric arc furnaces and continuous casting machine ['the primary production units'], and the material handling systems and equipment associated with the primary production units and all auxiliary units, systems and equipment provided for the proper operation of the primary production units.) Based upon a study performed by an independent source a comprehensive program utilizing canopy hoods over the electric arc furnaces, an improved direct evacuation control system, two additional new baghouses and interconnecting ducts was adopted. Bids were sought from various manufacturers and fabricators, and in July, 1971, Respondent entered into a contract under which American Air Filter Co. agreed to perform certain engineering and to supply the required materials. A copy of that contract is attached hereto. Since the Fall of 1971 Respondent's employees have been engaged in constructing and installing the new system which will cost approximately \$4,200,000. By June 30, 1973, the canopy hoods, the two new baghouses and associated and supplementary components will be installed and operating. This will eliminate the largest part of Respondent's emissions and bring it into compliance with applicable laws and regulations. The remaining portion of the new system will be installed as conditions permit but in any event not later than May 30, 1975.

2. Respondent agrees that it will maintain its air emission control system hereinabove described under the procedures set forth on the attached 'Maintenance Program for EMS Dust Collection System.' Respondent will provide Complainant with copies of all changes in or additions to said procedures and notify it of any deletions therefrom.

3. There is no dispute between the parties concerning the allegations contained in Paragraph 1 of Count I of the Amended Complaint in PCB 72-221.

4. With respect to the allegations of Paragraph 2 of said Count I:

a. Complainant's evidence offered by various witnesses and photographs will show or tend to show that the emissions of particulate matter from Respondent's electric melt shop have, in the residential area to the north of Respondent's plant, soiled wash hanging on clothes lines; prevented the enjoyment of fresh air through open windows and the use of window fans; become imbedded in a freshly painted porch; dirtied automobiles; covered windows and desk tops in an office with fine particles; deposited dirt on buildings, furniture and appliances; interfered with outdoor activities such as barbeques; and reduced the value of real estate;

b. Respondent's opposing evidence will show or tend to show that there has not been any objective reduction in real estate values because of emissions of particulate matter from its electric melt shop, that there have been sporadic complaints in the past but much lesser in number than is indicated by Complainant's evidence, and that the episodes shown by Complainant's evidence do not constitute violations of Section 9(a) of the Environmental Protection Act on the dates and within the time period alleged in the Amended Complaint;

c. If this case were tried to completion, Respondent would also have relied upon Section 49(e) of the Environmental Protection Act as a defense to the charge of a violation of Section 9(a) and would have introduced evidence in support of that defense;

d. If the Board finds a violation of Section 9(a) the parties agree that it may enter an order under Section 33(b) of the Environmental Protection Act requiring or directing Respondent to cease and desist from violations of Section 9(a) and imposing a money penalty in an amount not greater than \$25,000.00.

5. With respect to the allegations of Paragraph 3 of said Count I of the Amended Complaint and the allegations of Paragraph 6 of Respondent's Answer thereto:

a. It is stipulated and agreed by and between the parties hereto that said Paragraph 3 of the Amended Complaint and said Paragraph 6 of Respondent's Answer thereto shall be and are hereby stricken and dismissed, in all respects; and no evidence in respect of either thereof shall hereinafter be considered, except as is contained in this Paragraph 5 of this Stipulation;

b. It is stipulated and agreed by and between the parties that, for purposes of Rule 203(i)(5) of 'Chapter 2: Air Pollution' of the Regulations of the Illinois Pollution Control Board, that Laclede Steel Company has at all relevant times been an owner or operator of an existing emission source which is required to comply with Rule 3-3.2130 of the Regulations Governing the Control of Air Pollution as amended August 19, 1969; said existing emission source including and primarily consisting of the electric melt shop at the Alton plant of Laclede Steel Company;

c. It is stipulated and agreed by and between the parties that neither party either admits or denies that, in the operation of the aforesaid electric melt shop, Laclede Steel Company either complied with or violated the said Rule 3-3.2130, but both parties further stipulate and agree that compliance with or violation of said Rule 3-3.2130 at any time prior to date of the order herein of the Pollution Control Board, shall not be raised, questioned, contested or litigated for any purpose whatsoever in any future action;

d. It is stipulated and agreed by and between the parties that, in light of the foregoing, and for the most propitious resolution of all matters concerned in any of these proceedings, for purposes of applying Rule 203 of 'Chapter 2: Air Pollution' Regulations of the Illinois Pollution Control Board, to Laclede Steel Company, with relation to the electric melt shop at its Alton plant, the said Rule 203(i)(5) shall be applicable and shall, for all purposes, be considered to require compliance with the applicable emission standards and limitations of said Rule 203, by, but in no event sooner than, May 30, 1975.

6. Respondent consents and agrees that on and after May 30, 1975 the emission standards and limitations of Rule 203 to be applied to its electric melt shop shall be those contained in Rule 203(a).

7. The parties acknowledge that Complainant has been temporarily prohibited from proceeding with a presentation of the issues raised by Count II of the Amended Complaint; and the parties agree that by reason of the provisions of this Stipulation the issues raised in said Count II have become moot and that said Count may be dismissed by the Pollution Control Board.

8. Coincidentally with the entry by the Pollution Control Board in Docket Nos. PCB 72-221 and 73-118 of an order in substantially the form appended hereto, Respondent will withdraw or the Board may dismiss the requests for variances which are the bases of Docket Nos. PCB 72-249, 72-250 and 72-251 now pending before the Pollution Control Board.

9. In view of the agreements and settlements reached herein, the parties agree that Docket No. 73-118 may be terminated by the issuance of an operating permit for Respondent's electric melt shop, at its Alton plant, as requested by Respondent in its application which forms part of the record of the Environmental Protection Agency filed by said Agency with the Pollution Control Board in Docket No. PCB 73-118.

10. The provisions of this Stipulation shall become effective and binding only upon approval thereof by an order of the Pollution Control Board. A draft of such order in the form contemplated by the parties is attached hereto. If the Pollution Control Board fails or refuses to enter such an order (or one otherwise agreeable to the parties thereto), then this Stipulation shall be null and void and the statements, agreements and stipulations of the parties as set forth herein shall not be considered as admissions nor used, introduced or sought to be introduced as evidence in any further proceedings in Docket Nos. PCB 72-221, 72-249, 72-250, 72-251 or 73-118, or in any other proceeding of any nature instituted by Complainant or by any other person, firm, corporation or governmental agency."

The Laclede Steel Company has adopted a maintenance program for dust collection which provides as follows:

"Laclede will on a routine basis lubricate all moving parts and equipment in accordance with the manufacturer's recommended procedure.

Laclede will on a routine basis inspect all equipment associated with the collecting system. This inspection will include, but not be limited to, the following: substation equipment; cooling tower, pumphouse; main fans and motors; reverse air fans and motors; conveyors; conveyor drives; water cooled sections, hoses; piping; dampers; damper drives; and electrical control centers. Included also will be inspection on a routine basis of ducts, hoods, framework and housing for signs of wear from corrosion, erosion, excessive heat, and excessive moisture, along with inspection of gauges, thermocouples and all other instruments to insure accurate functioning.

In the baghouses each bag will be inspected on a routine basis for holes or tears. Manometer readings in the baghouses will be recorded to check the efficiency of the cleaning cycle.

The procedures for these inspections and necessary checklists and report forms will be worked out by the Engineering Department in cooperation with American Air Filter Corporation and other suppliers. All reports are to be prepared by the Central Maintenance Department which is and will be responsible for the maintenance of the system and will be submitted to the Engineering Department for review. The Engineering Department will issue any required work orders to the Maintenance Department for any work which these reports or periodic visual inspections by the Engineering Department reveal to be required.

'Routine basis' as used herein means such frequency of the particular action involved as may be reasonably determined by the Engineering Department to provide for proper operation of the system and the protection of Laclede's investment."

Pursuant to the stipulation, the parties have submitted a proposed form of order which provides as follows:

"On May 23, 1972 the Environmental Protection Agency filed a Complaint against Laclede Steel Company alleging that the latter had caused or allowed emissions from its electric melt shop located in Alton, Illinois, to violate Section 9(a) of the Environmental Protection Act and Rule 3-3.2132 of the Rules and Regulations Governing Control of Air Pollution. Thereafter, on December 4, 1972, the Environmental Protection Agency filed an Amended Complaint modifying in some respects the allegations of the original Complaint and adding a second Count alleging that Laclede Steel Company was on April 14, 1972, and subsequently so operating its electric melt shop as to be in violation of Rule 203 (b) of the Regulations issued on the latter date. On or about June 20, 1972, Laclede Steel Company filed three petitions seeking variances, respectively, from the provisions of Rules 203(c) and 202(b) of the Air Pollution Regulations issued on April 14, 1972, and from Section 3-3.2130 of the Regulations Governing the Control of Air Pollution as amended August 19, 1969, and the provisions of Section 9(a) of the Environmental Protection Act. Finally, on August 31, 1972, Laclede Steel Company filed an Application for an Operating Permit for its electric melt shop. After several intervening revisions and resubmissions that operating permit application was denied by the Environmental Protection Agency on February 28, 1973 following which Laclede Steel Company, on March 19, 1973, filed a Petition for Review of said denial under the provisions of Section 40 of the Environmental Protection Act. The foregoing constitute the several matters now before this Board under the docket numbers listed in the caption hereof.

After extensive pre-trial discovery, motions, briefs and arguments, four days of public hearings and numerous pre-hearing conferences the Agency and Laclede Steel Company have entered into a Stipulation by which they propose to settle these related cases. That Stipulation has been presented to the Board under the provisions of Rule 333 of the Board's Procedural Rules.

Having considered the Stipulation and the entire record in these proceedings, the Board finds and orders:

1. Respondent is found to have violated Section 9(a) of the Environmental Protection Act by emissions into the atmosphere from its electric melt shop;

2. Respondent is hereby ordered to cease and desist from any further or future violations of Section 9(a) of the Environmental Protection Act by means of emissions into the atmosphere from its electric melt shop;

3. There is hereby imposed on Respondent because of said violation of Section 9(a) as found by the Board a money penalty in the amount of \$25,000.

4. The Board finds that Rule 203(i)(5) of 'Chapter 2: Air Pollution' of the Regulations of the Illinois Pollution Control Board is applicable to Respondent with respect to its electric melt shop and that it shall by May 30, 1975 comply with the provisions of Rule 203(a) of said Regulations with respect to its electric melt shop;

5. Count II of the Amended Complaint filed in Docket No. PCB 72-221 is dismissed;

6. The proceedings in Docket Nos. PCB 72-249, 72-250, and 72-251 are hereby dismissed;

7. The Environmental Protection Agency is directed to issue an Operating Permit for Respondent's electric melt shop pursuant to the Application therefor as contained in the record of the Agency filed by said Agency with the Pollution Control Board in Docket No. PCB 73-118;

8. The Stipulation filed in these proceedings is hereby expressly approved and adopted as constituting part of this Order.

Appended to the stipulation is an exhibit containing the proposal and specifications submitted by American Filter Company, which proposals have been accepted by Laclede and which constitute the basis for the compliance program hereinabove in the stipulation set forth.

Transcripts of the hearings have been submitted to the Board and a review of the testimony establishes that Laclede's operation has caused the emission of particulates of a degree and intensity to constitute interference with the enjoyment of life, thereby creating air pollution, and violating Section 9(a) of the Environmental Protection Act. We believe the \$25,000 penalty to be warranted and will impose it as part of our final order.

We have reviewed the program of compliance and believe that its implementation will result in a substantial improvement of the air quality in the Alton area. We note that while the stipulated order makes no reference to compliance with the particulate emission limitations contained in the Rules and Regulations Governing the Control of Air Pollution presently in effect, no variance from these rules is provided and the present order gives no protection should violation of these rules be asserted. Furthermore, the Company will be obliged to reduce its emissions immediately pursuant to the cease and desist provisions of the Order to comply with Section 9(a) of the Act so as not to cause air pollution. The Order will require compliance with the provisions of the newly-enacted air pollution regulations by the operative date of May 30, 1975, with respect to Rule 203(a), which is the more stringent regulation related to new equipment and operation, applicable to a company not presently in compliance with existing regulations or subject to a variance.

Pursuant to the agreed Order, we shall impose a penalty in the amount of \$25,000 for the violations of Section 9(a) aforesaid, and direct that the Company cease and desist any violation with respect to said section.

The variance petitions #72-249, #72-250 and #72-251 are dismissed. The Agency is directed to issue an operating permit for LaClede's electric melt shop pursuant to application as contained in the record of proceeding #73-118.

The stipulation and all documents appended thereto, particularly the Maintenance Program for EMS Dust Collection System and the exhibit designated Exhibit 11 are approved and incorporated herein by reference.

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

IT IS THE ORDER of the Pollution Control Board that:

1. Respondent is found to have violated Section 9(a) of the Environmental Protection Act by emissions into the atmosphere from its electric melt shop, as alleged in the complaint;
2. Respondent is hereby ordered to cease and desist from any further violations of Section 9(a) of the Environmental Protection Act as a consequence of emissions into the atmosphere from its electric melt shop;



3. There is hereby imposed on Respondent because of said violation of Section 9(a) as found by the Board, a money penalty in the amount of \$25,000. 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 Drive, Springfield, Illinois 62706 by July 21, 1973;
4. The Board finds that Rule 203(i)(5) of "Chapter 2: Air Pollution" of the Regulations of the Illinois Pollution Control Board is applicable to Respondent with respect to its electric melt shop and that it shall, by May 30, 1975, comply with the provisions of Rule 203(a) of said Regulations with respect to its electric melt shop;
5. Count II of the Amended Complaint filed in #72-221 is dismissed;
6. The proceedings in Case Nos. 72-249, 72-250 and 72-251 are hereby dismissed;
7. The Environmental Protection Agency is directed to issue an Operating Permit for Respondent's electric melt shop pursuant to the application therefor as contained in the record of the Agency filed by said Agency with the Pollution Control Board in Case #73-118;
8. The Stipulation filed in these proceedings is hereby expressly approved and adopted as constituting part of this Order.

I, Christan Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on the 21<sup>st</sup> day of June, 1973, by a vote of 4 to 0.

