ILLINOIS POLLUTION CONTROL BOARD

August 11 , 1971

Environmental Protection Agency	)	
	)	
v.	)	PCB 71-43
	)	
Lipsett Steel Products, Inc.	)	

J. H. Keehner, Assistant Attorney General of Illinois for the Environmental Protection Agency
R. E. Robertson, Attorney for Lipsett Steel Products, Inc.

Dissenting Opinion (by Mr. Aldrich):

I support the Opinion of the Board that enters a cease and desist order against future open burning of boxcars by Lipsett but join Mr. Kissel in disagreeing with the imposition of penalties for burning on six days in 1971.

Lipsett has diligently sought techniques to reduce the smoke from burning boxcars (which incidentally involves recycling, a goal of the Board). On the dates on which they are charged with violations, Lipsett was using gas fuel blowers which as far as the Board knows is as good a system as has been developed for reducing emission.

Furthermore, these alleged violations occurred within the period during which I would have granted a variance (Lipsett Steel Products v. EPA, PCB 70-50, March 22, 1971). Even though I felt that a variance should have been granted, I would have supported imposition of penalties if Lipsett had conducted boxcar burning in defiance of a Board order. The dates on which burning occurred predated the filing of the Board order in the variance case.

The $6,000 penalty was uncalled for in this case.

I, Regina E. Ryan, Clerk of the Illinois Pollution Control Board certify that Dr. Samuel R. Aldrich submitted the above Dissenting Opinion on the 13th day of August, 1971.