

ILLINOIS POLLUTION CONTROL BOARD  
October 21, 1993

PEOPLE OF THE STATE	)	
OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 93-157
	)	(Enforcement)
LISLE PARK DISTRICT, AND R.L.	)	
SMITH CONSTRUCTION, INC.,	)	
A NEVADA CORPORATION,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

This matter comes before the Board upon a complaint filed August 30, 1993, by Roland W. Burris, Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency and the People of the State of Illinois, against Lisle Park District, and R.L. Smith Construction, Inc., a Nevada Corporation located in Lisle, DuPage County, Illinois. The complaint alleges that Lisle Park District, and R.L. Smith Construction, Inc. have violated Sections 9(a), 9(b), 9(c), of the Illinois Environmental Protection Act (Act), 415 ILCS 5/9(a), 5/9(b), 5/9(c) and 35 Ill. Adm. Code 201.141 and 237.102(a) of the Board's rules.

Pursuant to 415 ILCS 5/31(a)(1), a joint Motion requesting relief from the Act's hearing requirement was filed by the parties on August 30, 1993. Notice of the waiver was published by the Board on September 23, 1993; no objection to grant of the waiver was received. Waiver of hearing is hereby granted.

A Stipulation and Settlement Agreement was filed by the parties on August 30, 1993. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Lisle Park District, and R.L. Smith Construction, Inc. deny the alleged violations. Lisle Park District, and R.L. Smith Construction, Inc. agree to pay a civil penalty of Three Thousand Dollars (\$3000.00).

Where the respondent did not admit to a violation in the settlement agreement the Board nonetheless has the authority to approve such agreement. See, Chemetco, Inc. v. Illinois Pollution Control Board, 140 Ill. App.3d ,283, 488 N.E.2d 639, 643 (5th Dist. 1986); and Archer Daniels Midland v. Pollution Control Board, 140 Ill.App.3d 823, 489 N.E.2d 887 (3rd Dist. 1986).

The Board finds the Settlement Agreement acceptable under 35 Ill. Adm. Code 103.180. This Settlement Agreement in no way affects

respondent's responsibility to comply with any federal, state or local regulations, including but not limited to the Act and the Board's pollution control regulations.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

- 1) The Board hereby accepts the Stipulation and Settlement Agreement executed by the People of the State of Illinois and Lisle Park District, and R.L. Smith Construction, Inc. , concerning their operations located in Lisle, DuPage County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) The R.L. Smith Construction, Inc. shall pay the sum of Two Thousand Five Hundred Dollars (\$2,500.00) and Lisle Park District shall pay Five Hundred Dollars (\$500.00) within 30 days of the date of this Order. Such payment shall be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Illinois Environmental Protection Trust Fund, and shall be sent by First Class mail to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
2200 Churchill Road  
P.O. Box 19276  
Springfield, IL 62794-9276

Lisle Park District, and R.L. Smith Construction, Inc. shall also write their Federal Employer Identification Number or Social Security Number on the certified check or money order.

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

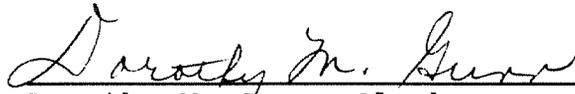
- 3) Lisle Park District, and R.L. Smith Construction, Inc. shall cease and desist from the alleged violations.

IT IS SO ORDERED.

J. Theodore Meyer dissented.

Section 41 of the Environmental Protection Act (415 ILCS 5/41) provides for the appeal of final Board orders within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motion for Reconsideration.)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 21<sup>st</sup> day of October, 1993, by a vote of 6-1.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board