

ILLINOIS POLLUTION CONTROL BOARD

March 7, 1996

PEOPLE OF THE STATE OF ILLINOIS)
)
 Complainant,)
)
 v.) PCB 96-61
) (Enforcement - Land, Mining)
 PAUL J. MAY & SONS, INC., an Illinois)
 corporation, and Paul J. May individually and)
 as President of Paul J. May & Sons, Inc.,)

Respondents.

ORDER OF THE BOARD (by M. McFawn):

This matter comes before the Board upon a four-count complaint filed September 15, 1995, by the Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency and the People of the State of Illinois, against Paul J. May & Sons, Inc., an Illinois corporation, and Paul J. May, individually and as president of Paul J. May & Sons, Inc. (May & Sons) regarding the property located at 7009 Spring Grove, McHenry County. The complaint alleges that May & Sons has violated Sections 12(a), 12(b), 21(a), and 21(d) of the Illinois Environmental Protection Act (Act), (415 ILCS 5/12(a), 5/12(b)) and 35 Ill. Adm. Code 404.101(a)(1), 404.101(a)(2) and 405.110 by the construction of a mine related facility without the proper permits, failure to obtain a mining operating permit, failure to properly abandon the mine and open dumping.

Pursuant to 415 ILCS 5/31(a)(2), the parties filed a joint motion requesting relief from the Act's hearing requirement on January 30, 1996. The Board published a notice of the waiver on February 2, 1996; no objection to the granting of the wavier was received. Waiver of hearing is hereby granted.

The parties filed a stipulation and settlement agreement on December 29, 1995. The stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. May & Sons denies the alleged violations but agrees to pay a civil penalty of three thousand dollars (\$3,000.00).

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 May & Sons regarding the property located at 7009 Spring Grove, McHenry County. The stipulation and settlement agreement are incorporated by reference as though fully set forth herein.
- 2) May & Sons shall pay the sum of three thousand dollars (\$3,000.00) 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 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

The certified check or money order shall clearly indicate on its face, May & Sons Federal Employer Identification Number 36-2938018 and that payment is directed to the Environmental Protection Trust Fund.

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.

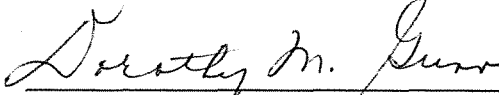
- 3) May & Sons shall cease and desist from the alleged violations.

Section 41 of the Environmental Protection Act (415 ILCS 5/41) provides for the appeal of final Board orders within 35 days of the date of service of this order. (See also 35 Ill. Adm. Code 101.246, Motion for Reconsideration.)

IT IS SO ORDERED.

Board member J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the 7th day of March, 1996, by a vote of 6-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board