

ILLINOIS POLLUTION CONTROL BOARD
May 20, 1993

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 91-53
) (Enforcement)
ENAMELERS AND JAPANERS, INC.)
an Illinois Corporation,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by R. C. Flemal):

This matter comes before the Board upon a complaint filed March 20, 1991, an amended complaint filed on March 5, 1992 and a second amended complaint filed on December 28, 1992, on behalf of the People of the State of Illinois, by and through its attorney, Roland W. Burris, Attorney General of the State of Illinois, against Enamelers and Japanners, Inc., with 4 separate plants, all located in Chicago, Cook County, Illinois. The second amended complaint alleges that Enamelers and Japanners, Inc. at plants #1 and #2 have violated Section 9(a) of the Environmental Protection Act ("Act"), 415 ILCS 5/9 (1992) and 35 Ill. Adm. Code 215.204(j)(3); plants #1 and #2 violated Section 9(b) of the Act, and 35 Ill. Adm. Code 201.144; plant #2 violated Section 9(b) of the Act and 35 Ill. Adm. Code 201.144; plant #3 violated Section 9(b) of the Act; Enamelers and Japanners, Inc. violated Sections 9(a) and 9(b) of the Act, standard condition #11 of the operating permits, and 35 Ill. Adm. Code 201.144, 201.302(a), 218.204(j)(3), and 218.211(c)(2).

Pursuant to Section 31(a)(1) of the Act, a joint Motion requesting relief from the Act's hearing requirement was filed by the parties on March 25, 1993. Notice of the waiver was published by the Board on April 15, 1993; no objection to grant of the waiver was received. Waiver of hearing is granted by the Board via today's opinion and order.

A Stipulation and Settlement Agreement was filed by the parties on March 15, 1993. The Stipulation sets forth facts pertaining to the nature, operations, and circumstances surrounding the claimed violations. Enamelers and Japanners, Inc., admit to past violations at plants #1 and #2 violating Section 9(a) of the Environmental Protection Act ("Act"), 415 ILCS 5/9 (1992) and 35 Ill. Adm. Code 215.204(j)(3); plants #1 and #2 violating Section 9(b) of the Act, and 35 Ill. Adm. Code 201.144; plant #2 violating Section 9(b) of the Act and 35 Ill. Adm. Code 201.144; plant #3 violating Section 9(b) of the Act; Enamelers and Japanners, Inc. violating Sections 9(a) and 9(b) of

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the Act, standard condition #11 of the operating permits, and 35 Ill. Adm. Code 201.144, 201.302(a), 218.204(j)(3), and 218.211(c)(2), and agree to pay a civil penalty of Twenty Thousand Dollars (\$20,000.00). Enamelers and Japanners, Inc. further agrees to cease and desist from the alleged violations.

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 Enamelers and Japanners, Inc., concerning violations at plants #1 and #2 of Section 9(a) of the Environmental Protection Act ("Act"), 415 ILCS 5/9 (1992) and 35 Ill. Adm. Code 215.204(j)(3); at plants #1 and #2 of 9(b) of the Act, and 35 Ill. Adm. Code 201.144; at plant #2 of Section 9(b) of the Act and 35 Ill. Adm. Code 201.144; at plant #3 of Section 9(b) of the Act; by Enamelers and Japanners, Inc. of Sections 9(a) and 9(b) of the Act, standard condition #11 of the operating permits, and 35 Ill. Adm. Code 201.144, 201.302(a), 218.204(j)(3), and 218.211(c)(2), by Enamelers and Japanners, Inc. with 4 separate plants located in Chicago, Cook County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
2. Enamelers and Japanners, Inc., shall pay the sum of Twenty Thousand Dollars (\$20,000.00) into the Illinois Environmental Protection Trust Fund. Payment of this penalty shall be as follows:
 - a. \$5,000.00 within thirty (30) days of the date of this order;
 - b. \$5,000.00 within sixty (60) days of entry of the Board's order;
 - c. \$5,000.00 within ninety (90) days of entry of the Board's order;

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- d. \$5,000.00 within one hundred and twenty (120) days of entry of the Board's order in this matter.

Each 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 must 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

Enamelers and Japanners, Inc., shall also write its Federal Employer's Identification Number or Social Security Number on the certified check or money order.

In the event that Enamelers and Japanners, Inc. fails to comply with any of the terms of Section X of the Stipulation and Proposal for Settlement, Enamelers and Japanners, Inc. shall pay to the Illinois Environmental Protection Trust Fund Five Hundred Dollars (\$500.00) per violation for each calendar day or portion thereof of non-compliance until such time as compliance is achieved. All payments shall be made by the fifteenth day of the month following the month during which each violation shall have occurred.

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 5/1003 of the Illinois Income Tax Act, (35 ILCS 5/101 et seq. (1992)), 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. Enamelers and Japanners, Inc. shall cease and desist from the alleged violations.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1992)) provides for appeal of final orders of the Board within 35 days. The rules of the Supreme Court of Illinois establish filing requirements. (But see also 35 Ill. Adm. Code 101.246, Motions 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 opinion and order was adopted on the 20th day of May, 1993, by a vote of 5-1.

Dorothy M. Gunn
Dorothy M. Gunn, Clerk
Illinois Pollution Control Board