ILLINOIS POLLUTION CONTROL BOARD
July 9, 1992

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 91-193
	)	(Enforcement)
PARK CREMATORY, INC., an Illinois corporation,	)	
	)	
Respondent,	)	

MICHAEL K. FRANKLIN, ASSISTANT ATTORNEY GENERAL, AND JULIE K. ARMITAGE, ENVIRONMENTAL PROTECTION AGENCY, APPEARED ON BEHALF OF COMPLAINANT;

RICHARD W. COSBY, COSBY AND BELL, APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by B. Forcade):

This matter comes before the Board by a complaint against Park Crematory, Inc. (Park) filed on October 9, 1991. The crematory includes two incinerator units and is located in Park Forest, Cook County, Illinois. The complaint was filed on behalf of the People of Illinois by Roland Burris, Attorney General of Illinois, on his own motion and upon the request of the Illinois Environmental Protection Agency (Agency) pursuant to Section 31 of the Illinois Environmental Protection Act (Act). (Ill. Rev. Stat. 1989, ch. 111-1/2, par. 1031.)

Count I of the complaint alleges that Park constructed incinerator-2 at its facility sometime after September 7, 1982, without obtaining the required construction permit from the Agency. Construction of an emission source without a construction permit violates Sections 9(a) and (b) of the Act (Ill. Rev. Stat. 1989, ch. 111-1/2, pars. 1009(a) and (b)) and 35 Ill. Adm. Code 201.142.

Count II of the complaint alleges that Park operated incinerator-2 at its facility from approximately September 7, 1982 until December 12, 1990, without the required operating permit. Operating an emission source without the required operating permit violates Sections 9(a) and (b) of the Act and 35 Ill. Adm. Code 201.143.

Count III of the complaint alleges that Park violated conditions of its air pollution control permit by failing to install temperature gauges on incinerator-1 and by not maintaining a maintenance log. Failure to follow a permit condition violates Section 9(b) of the Act.

A hearing was held on January 3, 1992, in Chicago, Illinois. At the end of the hearing, the parties waived closing arguments and the hearing officer set a schedule for the filing of briefs. On February 25, 1992, the Agency filed its post hearing brief. On March 24, 1992, Park filed its brief and the Agency filed its reply brief on April 15, 1992.

BACKGROUND

Park is located in Park Forest, Illinois. (Tr. at 13, 62.) Park cremates human remains. (Tr. at 63.) The crematory facility contains two incinerator units connected to a single stack. (Tr. at 14.) The crematory facility is in the rear of the building housing the Lain Sullivan Funeral Home (Tr. at 62) and is approximately 100 yards from a ten-story senior citizen residence. (Tr. at 63.)

Park is owned and operated by Gerald Sullivan (Tr. at 61) and was incorporated in 1979. (Tr. at 64.) At the time of incorporation, there was one incinerator; the second incinerator was installed sometime in 1982. (Tr. at 64.) The two incinerators are both double-fired units consisting of two chambers, a primary chamber and a secondary chamber. (Tr. at 64.)

In October of 1990, Mr. Mel Villalobos of the Agency, inspected the incinerators at Park as part of a routine inspection. (Tr. at 13.) Mr. Sullivan accompanied him during the inspection. (Tr. at 14.) At the time of the inspection, one incinerator was operating and the other unit was shut down, having completed its burn cycle. (Tr. at 14.) Mr. Villalobos described his observations of the inspection as follows:

> A. I observed that the incinerator was a double chamber incinerator without - - and I was not able to see any indication of a temperature gauge.
>
> Q. When you were at the site, did you ask to observe any maintenance records or logs?
>
> A. Yes. I asked Mr. Sullivan if they had any maintenance records and he said there was none [sic] that he could show me.
>
> (Tr. at 14-15.)

Mr. Villalobos also noted that there was no smoke coming out of the stack. (Tr. at 15.) Based on his inspection and the Agency's files on Park, Mr. Villalobos prepared an inspection report. (Tr. at 16.) He also reviewed the Agency file and discovered that an inspection of Park had occurred in February of 1982. (St. Exh. 14.) The report from the previous inspection indicated that there was one incinerator for which there was no permit and that Park intended to construct another incinerator. (St. Exh. 14.)

The Agency file also showed that an operating permit was issued to Park on September 7, 1982. (St. Exh. 9, Def. Exh. 2.) Based on the inspection report by Mr. Villalobos and the Agency's file on Park, the Agency sent Mr. Sullivan a compliance inquiry letter (CIL) informing him of the apparent violations observed at the inspection. (St. Exh. 4, Def. Exh. 4.)

ARGUMENT

Park believes that no penalty should be imposed. Park argues that the complaint was not brought as a result of a complaint of the emission of any smoke or odor. Park further argues that upon receipt of the CIL letter from the Agency, Park took the necessary steps to come into compliance.

Park further argues that the Agency failed to prove the allegations as set forth in the complaint. Park argues that the Agency did not prove that incinerator-2 was constructed after September 7, 1982, as alleged in the complaint. Park also contends that the operating permit issued to Park, on September 7, 1982, was for incinerator-2.

The Agency argues that the testimony clearly shows that Park constructed and operated incinerator-2 without the required construction and operating permits. The Agency argues that Park has not produced a permit for the incinerator. The Agency concludes that the permit issued in September 1982, was for incinerator-1. In the alternative, the Agency asks for leave to amend its complaint in accordance with the facts presented by Park.

Concerning the temperature gauges on the units, Park argues that the manufacturer of the unit did not recommend an operating temperature, but instructed that the incinerator was at the proper operating temperature when the bricks were a cherry red. Park contends that this was the method used in operating the incinerators and that this method of operation prevented the emission of smoke and odor. Even with the temperature gauges installed, Park crematory does not depend on the gauges for operating the incinerators.

The Agency argues that temperature gauges were required by the permit and should have been installed. The Agency contends that Park could not determine if the unit had reached the operating temperature without temperature gauges. The Agency argues that temperature gauges are necessary to determine that the recommended operating temperature has been reached.

Concerning the maintenance log, Park argues that the Agency did not specify the required form for maintenance records. Park further argues that at the inspection, Mr. Villalobos requested a "maintenance log". Mr. Sullivan responded that there was no

maintenance log because the records were not kept in the form of a "log". Park kept all maintenance documents on the incinerator in their general files and not in log form.

The Agency argues that while Park may not have been informed of an exact form for keeping maintenance records, the records are to be available for inspection by Agency personnel. The Agency argues that maintenance records filed in the general filing system are not accessible for inspection.

DISCUSSION

The Board must first determine if the violations as alleged in the complaint occurred. If a violation is found to have occurred the Board will then consider all relevant factors to determine the appropriate penalty to be assessed. In order to prevail on Counts I and II the Agency must show that the incinerator was a potential source of emissions requiring a permit and that Park failed to obtain the required construction and operating permits. To prevail on Count III the Agency must show that Park violated a condition of its operating permit.

The incinerator is clearly an emission source that requires a permit. An emission source is "any equipment or facility of a type capable of emitting specified air contaminants into the atmosphere". (Section 201.102.) No person shall construct install or operate any equipment capable of causing air pollution without a permit. (Section 9(b).) An incinerator is capable of causing air pollution. Section 201.142 requires a construction permit for any new emission source (constructed or installed after April 14, 1972). An operating permit is required for the operation of any new emission source. (Section 201.143.) Incinerators are not listed in Section 201.146 as equipment exempt from the permit requirement. Therefore, construction and operating permits were required for the incinerator at Park's facility.

Park was aware of the permit program and that its incinerator was included in the permitting program. This is evident by the fact that Park had a permit for one incinerator since September of 1982. (St. Exh. 9, Def. Exh. 2.) This permit was renewed in 1983, 1985 and 1987. (St. Exh. 6, 7 and 8, Def. Exh. 3.) An operating permit for both incinerators was obtained by Park in December of 1990. (St. Exh. 1, Def. Exh 7.)

Section 33(a) of the Act states:

> ..It shall not be a defense to findings of violations of the provisions of the Act or Board regulations or a bar to the assessment of civil penalties that the person has come into compliance subsequent to the violation, except where such

action is barred by any applicable State or Federal statute of limitation.

In the case at bar, no such statute of limitation applies and subsequent compliance by Park is no defense to operating without a permit.

COUNT I

Construction Permit

The Agency file for Park did not contain a construction permit. (Tr. at 19 & 36.) The Agency has established a prima facie case that Park did not have a construction permit. Park did not present any evidence to counter the Agency's case. Park does not argue that it had a construction permit but instead questions the intention of the Agency in raising the issue of the construction permit when the unit was constructed almost 10 years ago. Park further contends that the incinerator was constructed sometime in the spring or summer of 1982 (Tr. at 64) and not after September 7, 1982, as alleged in the complaint.

Park did not provide an exact date of when the incinerator was constructed. Park is the party most able to supply an exact date of when the incinerator was constructed. The Agency has requested leave to amend its complaint if the Board finds that the incinerator was constructed prior to September 7, 1982.

There is no statute of limitations or other regulation that prohibits the Agency from pursuing a violation that occurred almost 10 years prior to the commencement of the action. (Pielet Bros. Trading Co. v. PCB (5th Dist. 1982), 110 Ill. App. 3d 752, 442 N.E.2d 1374.)

Regardless of whether the incinerator was constructed before or after September 7th in 1982, a construction permit was required. It is undisputed that Park installed the incinerator sometime in 1982 without a permit. The Board finds that Park violated Sections 9(a) and 9(b) of the Act and 35 Ill. Adm. Code 201.142 by constructing incinerator-2 without a permit in 1982.

The Board finds a violation against Park regarding Count I of the complaint for constructing incinerator-2 without a permit sometime in 1982.

COUNT II

Operating Permit

The Park facility was inspected on February 9, 1982. (St. Exh. 14.) At the time of this inspection there was only one incinerator at the site. (St. Exh. 14.) The inspector noted that Park had indicated that it planned to install a second incinerator. (St. Exh. 14.) As a result of this inspection, Park was sent a letter on February 17, 1982, stating the apparent violations discovered by the inspection. (St. Exh. 13.) The letter stated that Park had failed to obtain construction and operating permits for its incinerators and the forms to obtain these permits were enclosed. (St. Exh. 13.) Park responded to this letter on March 1, 1982, noting that once the information was gathered it would return the forms to the Agency. (St. Exh. 12.) A follow-up letter was sent to Park on July 29, 1982, referencing the Agency's previous letter and noting a violation for failure to obtain an operating permit. (St. Exh. 11.)

On September 1, 1982, Park submitted an application for an operating permit to the Agency. (St. Exh. 10, Def. Exh. 1.) The permit application indicates that the permit is for a G & S Crematory, Model JN-1-GA. (St. Exh. 10, Def. Exh. 1.) This designation was taken from a report of a stack test supplied to Mr. Sullivan from the manufacturer. (Def. Exh. 1, Tr. at 66.) The permits and permit applications do not use the designation of incinerator-1 or incinerator-2. Mr. Sullivan testified that he believed that the permit applied to incinerator-2. (Tr. at 69.)

The permit application submitted by Park in 1990, in response to the CIL letter from the Agency, specifies the same model number and notes that the permit is for retort #2. (St. Exh. 2, Def. Exh. 5.) The CIL letter specified that a permit was required for incinerator-2. (St. Exh. 4, Def. Exh. 4.) The record does not contain any information on incinerator-1 concerning model number or manufacturer. The inspection report from the 1990 inspection describes the two units as identical, both being G & S Crematory. (St. Exh. 5.)

The Agency questions why Mr. Sullivan would submit a permit application for an incinerator that he believed was already permitted. Park argues that Mr. Sullivan was merely attempting to comply with the Agency's request and achieve compliance.

Question 11a on the permit application asks if the equipment was owned or contracted for by the applicant prior to April 14, 1972. (St. Exh. 10, Def. Exh. 1.) On the application this question was answered "yes". (St. Exh. 10, Def. Exh. 1.) Mr. Sullivan testified that the "yes" answer was in error and that he did not fully understand the question. (Tr. at 87.) The answer to this question does not prove whether the application was

intended to cover incinerator-1 or 2. Park was incorporated in 1979, so it could not have contracted for either incinerator prior to 1972. The record does not indicate when incinerator-1 was installed or that the answer for question 11a would be different if the application were for incinerator-1.

The main issue is whether the operating permit issued in 1982 was for incinerator-1 or incinerator-2. If the permit applies to incinerator-1, Park has operated incinerator-2 from 1982 until 1990 without a permit, as alleged in the complaint. If the permit was for incinerator-2, Park has operated incinerator-1 since sometime in 1980 until 1990 without a permit. The Agency has requested leave to amend its complaint, if it is determined that the permit was for incinerator-2. Park argues that allowing the Agency to amend the complaint would violate the notice requirements of Section 31(d). The Board does not find a notice problem with allowing the Agency to amend its complaint. The change from incinerator-2 to incinerator-1 would not result in a substantial change to the charges against Park. Park would not be prejudiced by this amendment. However, an amendment to the complaint is not necessary, because the Board finds the permit applied to incinerator-1.

The Board finds that the permit issued in 1982 was for incinerator-1 due to the circumstances that preceded the filing of the application. The application was filed as a result of the inspection in which Park was informed that an operating permit was required for its existing unit and construction and operating permits would be needed for any new unit. The model number on the application was pulled from a test stack report; it was not taken from the unit or literature on the unit. This model and stack test report could also be related to incinerator-1. The application submitted in 1990 referenced incinerator-2 where no prior reference was made in previous applications. The Board questions why Park did not inquire of the Agency why a new permit was required for incinerator-2 if it believed it was covered by an existing permit.

The Board finds Park in violation of the Act for operating incinerator-2 from approximately September 7, 1982 until December 12, 1990, without an operating permit as alleged in Count II of the complaint.

COUNT III

Temperature Gauges

With the temperature gauges installed, the primary chamber of the incinerator cannot be used if the secondary chamber is below 1450 degrees Fahrenheit. (Tr. at 79.) Mr. Sullivan testified that the secondary chamber is loaded when the bricks

are cherry red and the temperature gauges are not used to determine when the unit is up to temperature. (Tr. at 77.)

Condition #2 of the permit requires that "[t]he secondary combustion chamber must be preheated to the incinerator manufacturer's recommended operating temperature before any waste is loaded into the unit." (St. Exh. 1, Def. Exh.7.) An indication that the chamber has reached the proper operating temperature can reasonably be determined by the appearance of the bricks. Park has operated the incinerators in this manner for years without any problem and the manufacturer suggested this procedure. The Board agrees that the addition of temperature gauges provides extra assurance that the unit will be operated properly. However, the Board does not believe that the permit required the installation of temperature gauges. The permit requires that the unit be at the manufacturer's suggested temperature before operating. The temperature can be indicated by the cherry red color of the bricks. Therefore, the Board finds that Park did not violate this condition of its permit.

The Board finds no violation against Park for failure to install temperature gauges on its incinerators as alleged in Count III of the complaint.

Maintenance Records

The standard conditions attached to every permit require a maintenance record be kept on the premises. (St. Exh. 16, Def. Exh. 2.) The conditions further require that the maintenance record shall be available for inspection by agents of the Agency at any time during normal operating hours. (St. Exh. 16, Def. Exh. 2.) The Agency is not sure if a revised version of the standard conditions was attached to any of Park's renewal permits. (Tr. at 58.) However, the Board sees little difference in the two versions of standard conditions concerning maintenance records. Condition 7 of the standard conditions for operating permits revised 11/05/81 provides:

> The permittee shall maintain a maintenance record on the premises for each item of air pollution control equipment. This record shall be available to any agent of the Environmental Protection Agency at any time during normal working and/or operating hours. This record shall show, as a minimum, the:
>
> (a) date of performance of, and nature of, preventative maintenance, and....
>
> (Def. Exh. 2.)

The language in condition 8 of the standard conditions revised 10/85 is identical except for some minor changes in wording. (St.

Exh. 16.) These conditions both require the permittee to maintain a record on all preventative maintenance performed on the equipment and to provide the record to Agency personnel for inspection.

Park argues that the Agency inspector asked for a maintenance "log" and Mr. Sullivan did not show the inspector any records because there was no "log". The Board notes there is a conflict in the testimony as to whether Mr. Villalobos asked for a maintenance "record" or "log". Mr. Villalobos testified;

> A. Yes. I asked Mr. Sullivan if they had any maintenance records and he said there was none that he could show me.
>
> (Tr. at 15.)

He later testified that he "asked Mr. Sullivan for a maintenance log and [he] didn't see any." (Tr. at 23.) The inspection report that Mr. Villalobos made noted that "no maintenance log was available during inspection." (Tr. at 25, St. Exh. 5.) Mr. Sullivan also testified concerning the production of maintenance records during the inspection.

> Q. Mr. Sullivan, when Mr. Villalobos came to your site back in 1990, did you produce for him your maintenance records when requested?
>
> A. He didn't ask for our maintenance records.
>
> Q. Okay. But when he was there, you did not produce any maintenance records for him, correct?
>
> A. Because he did not ask for any.
>
> (Tr. at 85.)

Park attempts to make a distinction between maintenance records and a maintenance log. The Board sees little differentiation in the terms and feels that a request by Agency personnel to see a maintenance log is an adequate request to place an obligation on Park to disclose those maintenance records which are required to be kept by the permit condition.

Park filed its maintenance records (invoices) in its general filing system. (Tr. at 71.) In response to the Agency's notification of violation, Park pulled the maintenance records from the general filing system and compiled a log. (Tr. at 75.) Park did have records of the maintenance work done on the incinerator but failed to provide maintenance records when requested by the Agency inspector.

The form and content of Park's records are not at issue. Park violated the standard permit condition by failing to produce a maintenance record for the inspector's review. The Board finds that Park violated a condition of its operating permit by failing to produce maintenance records for inspection by Agency personnel when requested.

The Board finds a violation against Park as alleged in Count III of the complaint of violating a permit condition by not furnishing maintenance records to Agency personnel for inspection on October 17, 1990.

33(c) FACTORS

Having found violations, we must determine an appropriate penalty under the 33(c) factors contained within the Act.[1] Section 33(c) states:

> In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:
>
> 1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
>
> 2. the social and economic value of the pollution source;
>
> 3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
>
> 4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
>
> 5. any subsequent compliance.

For criteria (1), "interference with the protection of the health, general welfare and physical property of the people" is a

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[1] Both Section 33(c) and Section 42(h) factors will be considered because hearing was held after September 8, 1990, when Section 42(h) became law. See People v. Sure Tan, Inc. (April 11, 1991), PCB 90-62, 121 PCB 9.

very important factor in the instant case. This factor is especially important considering Park's close proximity to a residential area. The permitting process is the nucleus of the Agency's regulatory scheme.

Without the threat of penalties for non-compliance with the permitting process, companies will seek to avoid the necessity of obtaining permits. Without the permitting process, the air quality in Illinois would be threatened because the Agency would be unable to assess all the sources of air pollution and act accordingly.

This is a crucial point. The air permit system is designed to regulate all those pollution sources which contribute particulate and other matter into the Illinois airshed. The only way such a system can operate effectively is for the Agency to be aware of all sources and to permit accordingly. Without a comprehensive system, projections are skewed and air quality determinations as well as the goals thereof suffer. This is especially true in the Chicago area, which is a non-attainment area under the provisions of the Clean Air Act. If the Agency is unable to ascertain the location and output of pollution sources, it would be impossible to regulate those sources towards the goals mandated under the Clean Air Act. The ultimate effect is detrimental to the "health, general welfare and physical property of the people."

For criteria 2, the Board presumes that a functioning business entity which employs people and provides a needed service has a certain degree of social and economic value.

For criteria 3, the crematory is located near a residential area. The crematory has operated at this location for 13 years without complaints.

Criteria 4 is not applicable to the case at hand because there is nothing on the record that indicates that there is or ever has been a problem with the emissions from the crematory.

Concerning criteria 5, there is no doubt that Park eventually came into compliance by obtaining an operating permit from the Agency on December 12, 1990. Park also installed the temperature gauges (Tr. at 74) and established a maintenance log. (Tr. at 78) to correct the alleged violations.

Section 42(h)

The Board also considers the factors in Section 42(h) in determining whether a penalty shall be imposed. Section 42(h) authorizes the Board to consider the following factors:

1. the duration and gravity of the violation;

2. the presence or absence of due diligence on the part of the violator in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;

3. any economic benefits accrued by the violator because of delay in compliance with requirements;

4. the amount of monetary penalty which will serve to deter further violations by the violator and to otherwise aid in enhancing voluntary compliance with this Act by the violator and other persons similarly subject to the Act; and

5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the violator.

Park has operated without a permit from the construction of the incinerator in 1982 until obtaining a permit from the Agency in 1990.

Park cooperated with the Agency during the inspection. Upon notification of the violations, Park took steps to correct the violations. Park applied for and received operating permits for incinerator-1 and incinerator-2 in 1990.

Based on the record, it is impossible to determine with any certainty the amount of economic benefits accrued by Park as a result of its noncompliance with the regulations. At the very least, however, the company did save any applicable permitting fees. The economic benefits received because of the delay in compliance are minimal. Park saved any costs associated with permitting the unit and renewing the permit.

The Agency has recommended that a $15,000 penalty be assessed against Park. The Agency feels that this penalty will best serve to deter further violations of the Act as well as enhance voluntary compliance from Park and the regulated community subject to the Act.

The Agency is unaware of any previously adjudicated violations against Park.

Section 42(f)

The complaint alleges that the violations were wilful, knowing or repeated. If the Board finds that the violations were wilful, knowing or repeated, the Board may pursuant to Section 42(f) of the Act, award costs or reasonable attorney's fees to be paid by the Respondent. The Attorney General did not pursue this issue at hearing. The Board does not find sufficient evidence to find that the violation was wilful, knowing or repeated. Mr. Sullivan responded to the Agency's letters and did eventually obtain operating permits for both incinerators. After being notified of the problems discovered by the Agency in the inspection, Mr. Sullivan added the temperature gauges and began maintaining a maintenance log to correct the problems. Mr. Sullivan was cooperative with the Agency during the inspection and in the actions that resulted from the inspection.

While Mr. Sullivan was aware of the permitting process, the record indicates that he may not have fully understood the permitting requirements and procedures. While ignorance of the law is not a defense for not following the permit requirements it may have relevance in determining if the violation was wilful, knowing or repeated.

CONCLUSION

In short, we find that Park has violated Sections 9(a) and 9(b) of the Act as well as Section 201.142 and 201.143 of the Board's regulations. The record amply demonstrates that Park did "install, or operate any equipment, facility ... capable of causing or contributing to air pollution, of any type designated by Board regulations, without a permit granted by the Agency..." (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1009(b).) The record also shows that Park failed to produce its records for inspection by Agency personnel. The Board notes that Park is potentially subject to a fine of $50,000 for each violation of the Act in addition to a daily penalty on each violation of $10,000 for each day the violation continued. (Section 42(a).) Considering that Park has operated without a permit from 1982 until 1990, the penalty could be substantial.

In light of the above, the Board hereby assesses a penalty of $9,000 payable to the Environmental Trust Fund. This amounts to a fine of $1,000 per year of violation. This penalty is necessary to aid in the enforcement of the permit requirements.

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

ORDER

1. Park Crematory has violated Sections 9(a) and (b) of the Illinois Environmental Protection Act and 35 Ill. Adm. Code 201.142 by constructing incinerator-2 without a construction permit sometime in 1982.

2. Park Crematory has violated Sections 9(a) and (b) of the Illinois Environmental Protection Act and 35 Ill. Adm. Code 201.143 by operating incinerator-2 without an operating permit from approximately September 7, 1982 until December 12, 1990.

3. Park Crematory has violated a condition of its permit and Section 9(b) of the Environmental Protection Act by failing to produce maintenance records for inspection by the Agency as requested on October 17, 1990.

4. Within 30 days of the date of this order Park Crematory shall, by certified check or money order, payable to the State of Illinois, designated to the Environmental Protection Trust Fund, pay the penalty of $9,000 which is to be sent by first class mail to:

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

Park Crematory, Inc. shall also place its Federal Employer Identification Number upon 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, (Ill. Rev. Stat. 1991., ch. 120, par. 10-1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not occur during the pendency of an appeal during which payment of the penalty has been stayed.

5. Park Crematory, Inc. is hereby ordered to cease and desist from all violations of the Illinois Environmental Protection Act and from Board regulations.

6. This docket is hereby closed.

IT IS SO ORDERED.

J. Anderson abstained.

Section 41 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1041) provides for the appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

I, Dorothy Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 9th day of July, 1992, by a vote of 5-0.

Dorothy M. Gunn

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board