

ILLINOIS POLLUTION CONTROL BOARD  
April 6, 2000

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 96-240  
) (Enforcement - Water & UST)  
ROGERS O'HARE MOTOR TERMINAL )  
LIMITED, a limited partnership, and CAROLINA )  
FREIGHT CARRIERS CORPORATION, a )  
North Carolina corporation, )  
)  
Respondents. )  
)

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On January 21, 2000, the parties filed a stipulation and proposal for settlement. The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. The amended complaint alleged that respondent violated Sections 12(a) and 12(d) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), 12(b), 12(d) (1998)); the Board's underground storage tank regulations at 35 Ill. Adm. Code 731.160, 731.164(d), 731.165(a) and (b); and 731.166(a) by causing or allowing the discharge of diesel fuel, failing to provide a free product removal report, failing to conduct a complete soil and groundwater investigation, and failure to timely submit requested information and reports.

Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (1998)), the Board caused publication of the required newspaper notices of the stipulation and proposal for settlement and request for relief from the hearing requirement. The notices appeared in the *Mount Prospect Times* and *Des Plaines Times* on February 3, 2000. The Board did not receive any requests for hearing. Accordingly, the Board grants a waiver from the hearing requirement.

The stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. Respondents neither admit nor deny the alleged violations and agree to pay a total civil penalty of \$17,500. Respondents must continue to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's regulations.

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

ORDER

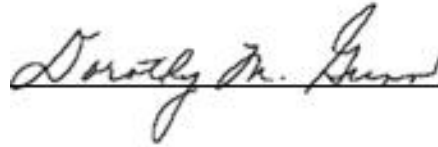
1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and Rogers O'Hare Motor Terminal Limited (Rogers O'Hare), a Limited Partnership, and Carolina Freight Carriers Corporation (CFC), a North Carolina corporation, concerning a facility located at 160 Old Higgins Road, Des Plaines, Cook County, Illinois. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. Respondents shall pay the total sum of \$17,500 within 30 days of the date of this order. Rogers O'Hare shall pay a penalty of \$10,000 and ABF Freight System (ABF), Inc. the successor of CFC by merger, shall pay \$7,500. Such payment shall be made by certified check or money order payable to the Treasurer of the State of Illinois. The case number, case name, and respondents' respective federal employer identification number (Rogers O'Hare's is 36-363029970; ABF's is 71-024944) shall be included on the check or money order. The check or money order also must clearly indicate that payment is directed to the Environmental Protection Trust Fund.
3. The check (or money order) shall be sent by first class mail to:  

Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276
4. 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 (1998)), 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.
5. Respondent shall cease and desist future alleged violations of any federal, State, or local statutes and regulations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions 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 6th day of April 2000 by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board