

ILLINOIS POLLUTION CONTROL BOARD
March 26, 1992

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 91-129
) (Enforcement)
)
 CITY OF BLOOMINGTON,)
)
 an Illinois Municipal)
 Corporation,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by J.C. Marlin):

This matter comes before the Board upon a complaint filed July 26, 1991, on behalf of the People of the State of Illinois ("People"), by and through its attorney, Roland W. Burris, Attorney General of the State of Illinois, against the City of Bloomington, an Illinois Municipal Corporation, located in Bloomington, Illinois. The complaint alleges that the City of Bloomington has violated Sections 18(a) (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1018(a)) and 35 Ill. Adm. Code Sections 601.101, 602.101, 653.102 and 653.801 of the Board's rules and regulations.

Pursuant to Ill. Rev. Stat., 1991 Supp., ch. 111 1/2, par. 1031(a)(1), a joint Motion requesting relief from the Act's hearing requirement was filed by the parties on September 4, 1991. Notice of the waiver was published by the Board on September 24, 1991; 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 Proposal for Settlement was filed by the parties on July 26, 1991. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. The City of Bloomington neither admits nor denies the alleged violations. The City of Bloomington agrees to pay a civil penalty of Five Thousand Five Hundred Dollars (\$5,500.00).

The Board has authority to impose a penalty where the parties have stipulated to a penalty, but not to a finding of violation. 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 Proposal for Settlement executed by the People of the State of Illinois and the City of Bloomington, concerning its operations located in Bloomington, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2.) The City of Bloomington shall pay the sum of Five Thousand Five Hundred Dollars (\$5,500.00) 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 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 City of Bloomington shall also write its Federal Employer Identification Number or Social Security Number on the certified check or money order.

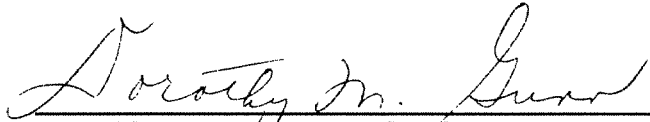
Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (Ill. Rev. Stat. 1991, ch. 120, par. 10-1003), as now or hereafter amended, from the date of payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

3. The City of Bloomington shall cease and desist from the alleged violations.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1991, ch. 111½, par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 26th day of March, 1992, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board