

ILLINOIS POLLUTION CONTROL BOARD
February 28, 1991

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 90-12
) (Enforcement)
HYSAN CORPORATION, an)
Illinois corporation,)
)
Respondent.)

RICHARD A. VERKLER, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT THE PEOPLE OF THE STATE OF ILLINOIS.

CAROLYN HESSE, MCDERMOTT, WILL AND EMERY, APPEARED ON BEHALF OF RESPONDENT HYSAN CORPORATION.

OPINION AND ORDER OF THE BOARD (by M. Nardulli):

This matter comes before the Board upon a complaint filed on January 25, 1990, by Neil F. Hartigan, Attorney General of the State of Illinois, against respondent, Hysan Corporation (Hysan), an Illinois corporation. The complaint alleges that Hysan operated its Blue Island facility, which manufactures products such as hair spray, pesticides, air fresheners and other household sprays, in violation of section 9(b) of the Illinois Environmental Protection Act (Act) (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1009 (b)) and sections 201.143 and 201.144 of the Board's air regulations. (35 Ill. Adm. Code 201.143.)

Hearing was held on this matter on July 30, 1990 in Chicago, Illinois. At the hearing, the Attorney General read into the record the terms of a stipulated agreement. This "Stipulation of Facts and Proposed Settlement" was subsequently signed by the parties and sets forth the full statement of all material facts pertaining to the nature, operations and circumstances surrounding the claimed violations. Hysan neither admits nor denies to violations of the Act and Board regulations. Hysan obtained an operating permit for the equipment which is the subject of this action on June 19, 1989. Hysan agrees to pay a penalty of ten thousand dollars (\$10,000) into the Environmental Protection Trust Fund.

The Board has the authority to impose a penalty where the parties have stipulated to a penalty, but not to a finding of violation. (Chemetco, Inc. v. PCB, 488 N.E.2d 639, 643 (5th Dist.

1986); Archer Daniels Midland v. PCB, 489 N.E.2d 887 (3d 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 Boards's air pollution 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 of Facts and Proposed Settlement executed by the Illinois Environmental Protection Agency and Hysan Corporation concerning violations of section 9(b) of the Act and 35 Ill. Adm. Code 201.143 and 201.144. The Stipulation of Facts and Proposed Settlement are incorporated by reference as though fully set forth herein.
- 2.) Hysan shall pay the sum of five thousand dollars (\$5,000) within 30 days of the date of this Order and the sum of \$5,000 within 120 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

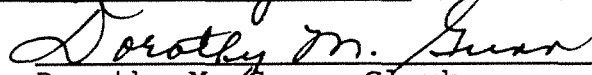
Hysan shall also write its Federal Employer Identification Number or Social Security Number on the certified check or money order.

Section 41 of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, 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.

J.Theodore Meyer dissents.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 28th day of February, 1991, by a vote of 5-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board