

ILLINOIS POLLUTION CONTROL BOARD
June 6, 1991

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 90-230
) (Enforcement)
)
 F.S. MADISON SERVICE COMPANY, an)
 Illinois agricultural)
 cooperative,)
)
 Respondent.)

DENNIS J. ORSERY APPEARED ON BEHALF OF THE COMPLAINANT.

DANNY LEIFEL APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board upon a complaint filed December 11, 1990 on behalf of the People of the State of Illinois ("People"), by and through the Attorney General of the State of Illinois, against Madison Service Company ("Madison"), located in Edwardsville, Madison County. The complaint alleges that Madison has violated Section 9(b) of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1987, ch. 111½, pars. 1001, et. seq., and 35 Ill. Adm. Code 201.142, 201.143, 201.144, 215.581 and 215.583 of the Board's rules and regulations.

Hearing on this matter was held May 10, 1991 in Edwardsville, Madison County. At hearing, the parties submitted a Stipulation and Settlement Agreement, executed by the parties. Madison neither admits nor denies not admit the alleged violations. Madison agrees to pay a civil penalty of fifty-five thousand dollars (\$55,000).

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 Settlement Agreement executed by the People of the State of Illinois and Madison Service Company, concerning Madison Service Company's operations located in Edwardsville, Madison County. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2.) Madison Service Company shall pay the sum of fifty five thousand dollars (\$55,000) in the following manner: Madison Service Company, shall pay the fifty-five thousand dollars (\$55,000.00) penalty in two installments of twenty-seven thousand five hundred dollars (\$27,500.00) each. The first installment shall be paid within 30 days of the date of this Order. The second and final installment shall be paid within one year of the date of this Order. Respondent agrees to stipulated penalties in the amount of two hundred dollars (\$200.00) per day for any late payments. Such payments 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

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

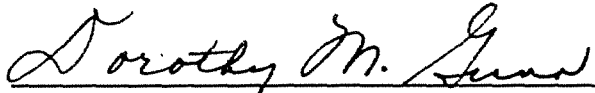
Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (Ill. REV. Stat. 1989, ch. 120, par. 10-1003), as now or hereafter amended, from the date of payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1987, 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.

J.D. Dumelle concurred and 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 6th day of June, 1991, by a vote of 6-1.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board