

ILLINOIS POLLUTION CONTROL BOARD
January 24, 1991

KATHY WESTERN AND JEFFREY WESTERN,)
)
Complainants,)
)
v.) PCB 89-44
) (Enforcement)
)
MOLINE CORPORATION,)
)
Respondent.)

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 89-87
) (Enforcement)
)
MOLINE CORPORATION,)
)
Respondent.)

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

This matter comes before the Board upon a complaint filed March 2, 1989, (PCB 89-44) by Kathy Western and Jeffrey Western (hereinafter "the Westerns") and upon a complaint filed May 19, 1989, (PCB 89-87) on behalf of the Illinois Environmental Protection Agency (hereinafter "Agency"), by and through its attorney, Neil F. Hartigan, Attorney General of the State of Illinois, against Moline Corporation, located on Dean Street in St. Charles, Kane County, Illinois. The complaints allege that Moline Corporation has violated Sections 9(a), 9(b) and 24 of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1989, ch. 111½, pars. 1001, et. seq., and 35 Ill. Adm. Code 201.141, 201.143, 201.142, and 900.102 of the Board's rules and regulations.

Hearing on this matter was held December 20, 1990 in St. Charles, Illinois. At hearing, the parties submitted a Stipulation and Settlement Agreement, executed by the parties. Moline Corporation neither admits nor denies the alleged violations. Moline Corporation agrees to pay \$10,000.00 into the Illinois Environmental Protection Trust Fund. In addition, Moline Corporation agrees to cease and desist from further violations, and agrees to complete a "Scope of Work" defined in Attachment A to the Stipulation and Proposal for Settlement. When the "Scope of Work" has been completed the parties will seek a final order from this Board.

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 Interim Opinion and Order.

ORDER

1.) The Board hereby accepts the Stipulation and Settlement Agreement executed by the Kathy Western and Jeffrey Western / Illinois Environmental Protection Agency and Moline Corporation, concerning Moline Corporation's operations located in St. Charles, Illinois. The Stipulation and Settlement Agreement and Attachment A "Scope of Work" are incorporated by reference as though fully set forth herein.

2.) Moline Corporation shall pay the sum of ten thousand dollars (\$10,000.00) 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:

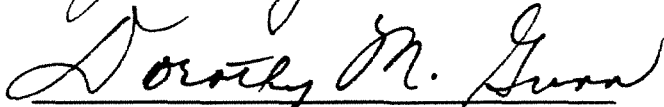
Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
P.O. Box 19276
Springfield, IL 62794-9276

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

IT IS SO ORDERED.

Board Members J.D. Dumelle 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 24th day of January, 1991, by a vote of 5-2.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board