ILLINOIS POLLUTION CONTROL BOARD June 7, 1990

PEOPLE OF	THE	STATE OF	ILLINOIS,)	
)	
	Complainant,)	
)	
		٧.)	PCB 90-15
WITCONCIN	CAN	COMPANY)	(Enforcement)
WISCONSIN	CAN	COMPANY,)	
		Respond	dent	,	
	Respondent.				

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

This matter comes before the Board upon a complaint filed January 25, 1990 on behalf of the People of the State of Illinois ("People"), by and through its attorney, Neil F. Hartigan, Attorney General of the State of Illinois, against Wisconsin Can Company ("Wisconsin Can"), located at 5437 South Massasoit Avenue in Chicago, Cook County, Illinois. The complaint alleges that Wisconsin Can has violated Sections 9(a) and (b) of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1987, ch. $111\frac{1}{2}$, pars. 1001, et. seq., and 35 Ill. Adm. Code 201.144 and 215.204 of the Board's rules and regulations.

Hearing on this matter was held April 17, 1990 in Chicago. At hearing, the parties submitted a Stipulation and Settlement Agreement, executed by the parties. Wisconsin Can does not admit the alleged violations. Wisconsin Can agrees to pay a civil penalty of \$7,500.

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 Wisconsin Can Company, concerning Wisconsin Can Company's operations located in Chicago, Cook County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2. Wisconsin Can Company shall pay the sum of Seven Thousand Five Hundred dollars (\$7,500) in four equal quarterly installments, the first installment being due 30 days from 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

3. Wisconsin Can 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. $111\frac{1}{2}$, 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.

Board Member 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 day of th

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board