

ILLINOIS POLLUTION CONTROL BOARD
July 3, 1990

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 90-71
) (Enforcement)
LUTHERAN GENERAL HOSPITAL,)
INC., d/b/a LUTHERAN GENERAL)
HOSPITAL-LINCOLN PARK,)
an Illinois corporation)
)
Respondent.)

APPEARANCE FOR COMPLAINANT BY RICHARD VERKLER, ASSISTANT ATTORNEY GENERAL.

APPEARANCE FOR RESPONDENT BY CAROLYN O'CONNOR, STAFF COUNSEL.

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

This matter comes before the Board upon a complaint filed April 20, 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 Lutheran General Hospital, Inc., d/b/a Lutheran General Hospital-Lincoln Park located in Chicago, Illinois. The complaint alleges that Lutheran General has violated Sections 9 (a) and (b) of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1989, ch. 111 $\frac{1}{2}$, pars. 1001, et seq., and 35 Ill. Adm. Code 201.143 and 212.181 of the Board's rules and regulations.

Hearing on this matter was held June 13, 1990 in Chicago, Illinois. At hearing, the parties submitted a Stipulation and Settlement Agreement, executed by the parties. Lutheran General does not admit the alleged violations and in fact denies the allegations. Lutheran General agrees to pay a civil penalty of five thousand dollars (\$5,000).

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 Lutheran General Hospital, Inc., concerning Lutheran General's operations located in Chicago, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2.) Lutheran General shall pay the sum of five thousand dollars (\$5,000) 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

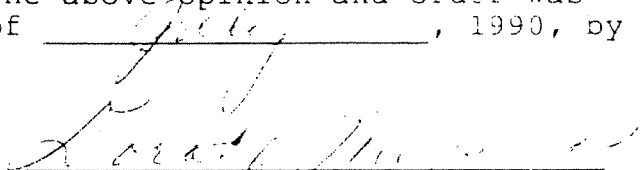
Lutheran General shall also write its Federal Employer Identification Number or Social Security Number on the certified check or money order.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1989, 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 5th day of July, 1990, by a vote of 6-1.



 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board