

ILLINOIS POLLUTION CONTROL BOARD
May 6, 1999

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 96-208
) (Enforcement - RCRA)
FRANK MERKENDORFER and PHIL)
PINELLO,)
)
Respondents.)

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

On March 18, 1999, the parties filed a stipulation and proposal for settlement. The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. The complaint alleged that respondents violated Sections 21(f)(1), 21(f)(2), and 21(i) of the Environmental Protection Act (Act) (415 ILCS 5/21(f)(1), 21(f)(2), 21(i) (1996)) and 35 Ill. Adm. Code 703.121(a), 722.111, 722.140(c), 725.135, 725.137, 725.211, 725.212, 725.242, 725.271, 725.274, 728.150(a)(2), and 728.150(c) by failing to make waste determinations, operating a hazardous waste storage facility without a permit, failing to comply with interim status standards for owners and operators of hazardous waste treatment, storage, and disposal facilities, failing to comply with regulations regarding preparedness and preparation, and failing to properly store hazardous waste.

Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (1996)), the Board caused publication of the required newspaper notice of the stipulation and proposal for settlement and request for relief from the hearing requirement. The Board did not receive any requests for hearing. Accordingly, the Board grants a waiver of the hearing requirement.

The stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. Respondents deny the alleged violations and agree to pay a total civil penalty of \$3,500. Respondents must continue to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's 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 respondents, Frank Merkendorfer (Merkendorfer) and Phil Pinello (Pinello), regarding alleged violations at a

facility located at 223 Adele Court, Villa Park, DuPage County, Illinois. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.

2. The respondents shall pay the total sum of \$3,500 pursuant to the following schedule:
 - a. Merkendorfer shall pay the total sum of \$1,000 in four installments of \$250. Merkenforfer shall pay the first installment within 30 days of the date of this order. Merkendorfer shall pay the second installment on October 15, 1999. Merkendorfer shall pay the third installment on February 15, 2000. Merkendorfer shall pay the fourth installment on June 15, 2000.
 - b. Pinello shall pay the total sum of \$2,500 within 30 days of the date of this order.

Such payments shall be made by certified checks payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund. The case number, case name, and the social security number of Merkendorfer or Pinello shall also be included on each respective check, which should clearly indicate that payment is directed to the Environmental Protection Trust Fund.

3. Each check shall be sent by first class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

A copy of each check shall be simultaneously sent by first class mail to:

Genevieve M. Watts
Assistant Attorney General
Environmental Bureau
Attorney General's Office
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601

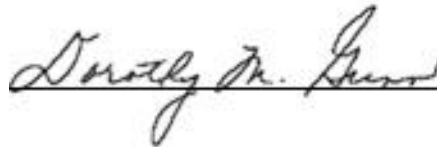
4. Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

5. Respondents shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1996)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

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 May 1999 by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board