

ILLINOIS POLLUTION CONTROL BOARD
January 23, 1997

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 95-163
)	(Enforcement - Air, Water
CLARK REFINING AND)	and RCRA)
MARKETING, INC., a Delaware)	
corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

This matter comes before the Board upon a thirteen-count complaint filed June 6, 1995 by the Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency (Agency) and the People of the State of Illinois, against Respondent Clark Refining and Marketing, Inc. (Clark) located in Hartford, Madison County. Complainant filed an amended complaint on November 12, 1996. The complaint alleges that Clark violated Sections 9(b), 9.1(b), 9.1(d)(1), 9.1(d)(2), 12(a), 12(d), 12(f), and 21(f) of the Illinois Environmental Protection Act (Act), (415 ILCS 5/9(b), 9.1(b), 9.1(d)(1), 9.1(d)(2), 12(a), 12(d), 12(f), and 21(f) (1994)) and 35 Ill. Adm. Code 219.449, 219.986, 201.142, 201.143, 302.203, 304.141, 703.121, 703.150, 722.123, 722.134, 722.140, 725.115, 725.116, 725.131, 725.212, 725.242, 725.291, 725.292, 725.296 and 728.107 of the Board's regulations. These regulations pertain to the untimely submission of reports, construction and operation of an emission source without a permit, NPDES permit requirements, water quality standards, hazardous waste storage, treatment and disposal operations, requirement of RCRA permit, waste analysis, and recording requirements.

Pursuant to 415 ILCS 5/31(a)(2), the parties filed a joint motion requesting relief from the Act's hearing requirement on November 22, 1996. The Board published a notice of the waiver on December 13, 1996; no objection to the granting of the waiver was received. Waiver of hearing is hereby granted.

The parties filed a partial Stipulation and Settlement Agreement on November 22, 1996. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Clark admits the alleged violation and agrees to pay a civil penalty of \$232,800.

The Board finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180. This settlement agreement in no way affects Clark's responsibility 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 Clark Refining and Marketing, Inc. (Clark) located in Hartford, Madison County, Illinois. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
- 2) Clark shall pay the sum of \$232,800 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

The certified check or money order shall clearly indicate on its face Clark's federal employer identification number 43-1491230 and that payment is directed to the Environmental Protection Trust Fund. A copy of the payment transmittal and check shall be simultaneously submitted to:

Donna Lutes
Office of the Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706

- 3) In addition Clark has agreed to pay the following:
 - a) Twelve thousand five hundred ninety-nine dollars and sixty-four cents (\$12,599.64) for all response cost and litigation-related cost of the Agency with regards to the spills identified in Counts VI through XIII of the Amended Complaint incurred through March 31, 1996.
 - b) \$10,000 for all attorney's fees of the Agency.
 - c) \$1,200 for all the Agency's cost of oversight of the Guard Basin cleanup through December 31, 1995.

- d) Clark shall submit payment for the cost specified in paragraphs (a), (b), and (c) within 30 days of the date of this order. Such payment shall be made by certified checks or money orders payable to the Treasurer of the State of Illinois, designated to the Hazardous Waste Fund, in the same manner and to the same address provided in paragraph 2. The certified check or money order shall clearly indicate on its face Clark's federal employer identification number 43-1491230 and that payment is directed to the Hazardous Waste Fund. Additionally, the check for cost specified in paragraph (a) is to be designated for emergency response activities. The check for cost specified in paragraph (b) is to be designated for environmental enforcement purposes. The check for cost specified in paragraph (c) is to be designated for the site remediation program.
- 4) Clark shall reimburse the Agency for all reasonable future response costs (other than attorneys' fees) incurred after March 31, 1996 relating to oversight of Clark's remedial investigation and/or remediation of the spills identified in counts VI through XIII of the amended complaint and after December 31, 1995 relating to oversight of the Guard Basin clean-up. The Agency will send Clark a detailed accounting of its oversight activity, the time spent by each Agency employee involved and the cost incurred by the Agency on a semi-yearly basis. Within sixty days of the accounting, Clark shall submit its payment in the manner specified in paragraphs (c) and (d).
- 5) Clark shall pay the sum of \$10,000 to the Attorney General. Such payment shall be made by certified check or money order payable to the Attorney General, designated to the Attorney General's Special Projects and Court Approved Distribution Fund and shall be sent by first class mail to:

Donna Lutes
Office of the Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706

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.

- 6) Clark shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Board Member K.M. Hennessey abstained.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this opinion and order. The Rules of the Supreme Court of Illinois establish filing requirements. (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 order was adopted on the ____ day of _____, 1997, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board