

ILLINOIS POLLUTION CONTROL BOARD
February 5, 2004

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 02-162
) (UST Enforcement)
FOX VALLEY DRY WALL, INC., an Illinois)
corporation,)
)
Respondent.)

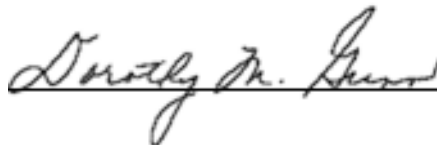
ORDER OF THE BOARD (by J.P. Novak):

On December 5, 2003, the People and Fox Valley Dry Wall, Inc. (Fox Valley) filed a stipulation and proposed settlement (Stip.), accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (Act) (415 ILCS 5/31(c)(1) (2002)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)). See 35 Ill. Adm. Code 103.300(a). Under the terms of the proposed stipulation, Fox Valley admits the allegations in the complaint. Stip. at 5. In addition, Fox Valley agrees to pay a civil penalty of \$8,000 to the Environmental Protection Trust Fund and to pay fees and costs in the amount of \$2,000 to the Attorney General State Projects and Court Ordered Distribution Fund. Stip at 9-10.

While the Board agrees that, “[a]s a matter of public policy the settlement of claims should be encouraged,” Rakowski v. Lucente, 104 Ill. 2d 317, 472 N.E.2d 791 (1984), a single element of the stipulation and proposed settlement raises a question. Although the Board has approved a proposed settlement including payment into this fund, People v. Clark Refining and Marketing, PCB 95-163 (Jan. 23, 1997), the Board is not aware of authority allowing it to order payment of costs and fees to the Attorney General State Projects and Court Ordered Distribution Fund. See, e.g., 415 ILCS 5/42(f) (2002). Consequently, the Board requests the parties by March 8, 2004, to file with the Clerk clarification of authority on which the Board may rely in ordering payment of fees and costs to the specified fund.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 5, 2004, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board