

ILLINOIS POLLUTION CONTROL BOARD
March 5, 1998

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 98-94
) (Enforcement - Air)
MATERIAL SERVICE CORPORATION,)
a Delaware corporation,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

This matter comes before the Board upon a six-count complaint filed on December 31, 1997, by the Attorney General of the State of Illinois, on behalf of the People of the State of Illinois, against respondent Material Service Corporation, a Delaware corporation (respondent), headquartered at 222 North LaSalle Street, Chicago, Cook County, Illinois regarding its facility known as "Yard 16" located at Route 18, P.O. Box 50, Fairmount, Vermilion County, Illinois. The complaint alleges that respondent violated Sections 9(a), 9(b), and 9.1(d) of the Illinois Environmental Protection Act (Act) (415 ILCS 5/9(a), 9(b) 9.1(d) (1996)) and 40 CFR 60.672(b) and 35 Ill. Adm. Code 201.141, 201.142, 201.143, and 254.202 by causing or allowing air pollution, discharging fugitive particulate matter emissions, failing to maintain and operate its pollution control equipment, constructing and operating a new emission source without a permit, violating the conditions of its permit, and failing to submit an annual emissions report.¹

On January 29, 1998, the parties filed a stipulation, settlement agreement, and a joint motion requesting relief from the requirement of Section 31(c)(2) that proposed stipulation and settlement agreements be presented at hearing. 415 ILCS 5/31(c)(2) (1996). The Board published a notice of the request for waiver on January 30, 1998. The Board did not receive any objections to the granting of the waiver. Accordingly, the Board grants a waiver from the hearing requirement.

The stipulation sets forth facts relating to the nature, operations, and circumstances surrounding the claimed violations. Respondent admits the alleged violations, and agrees to pay a total civil penalty of \$8,500.

¹ While the Board does not generally enforce the provisions of the Code of Federal Regulations, Section 9.1(d)(1) of the Act authorizes enforcement of Sections 111, 112, 165, and 173 of the Clean Air Act and the regulations adopted pursuant thereto.

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 finding 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 Material Service Corporation, a Delaware corporation (respondent), headquartered at 222 North LaSalle Street, Chicago, Cook County, Illinois regarding its facility known as "Yard 16" located at Route 18, P.O. Box 50, Fairmount, Vermilion County, Illinois. The stipulation and settlement agreement are incorporated by reference as though fully set forth herein.
- 2) Respondent shall pay the sum of \$8,500 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 Illinois Environmental Protection Trust Fund, and shall be sent by First Class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 N. Grand Avenue East
Springfield, IL 62702

The certified check or money order shall clearly indicate on its face respondents' federal employer identification number, 36-2117346, and that payment is directed to the Environmental Protection Trust Fund. A copy of the payment transmittal and the certified check or money order shall be simultaneously sent by first class mail to:

Alyssa L. Fron
Assistant Attorney General
Environmental Bureau
Attorney General's Office
100 West Randolph Street, 11th Floor
Chicago, IL 60601

Any portion of 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(a) (1996)), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall

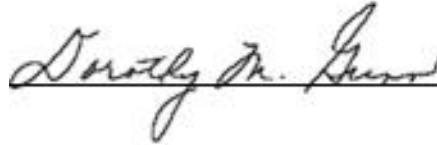
not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

3) Respondent 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 145 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 5th day of March 1998, by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board