

ILLINOIS POLLUTION CONTROL BOARD
June 17, 1999

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 99-73
) (Enforcement - Air)
J. L. CLARK, INC., a Delaware)
corporation,)
)
Respondent.)

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

On April 23, 1999, the Illinois Attorney General and J.L. Clark, Inc., a Delaware corporation, filed an amended complaint, an amended stipulation and proposal for settlement, an agreed motion for leave to file *instanter*, and a motion requesting relief from the hearing requirement pursuant to Section 31(c)(2) of the Environmental Protection Act (Act) (415 ILCS 5/31(c)(2) (1996)). On May 6, 1999, the Board issued an order considering the motion to be a request to reopen this docket. The docket had been closed by the Board order of January 21, 1999, accepting the parties' December 3, 1998 stipulation and proposal for settlement. The May 6, 1999 Board order granted the motion for leave to file *instanter* the amended complaint and amended stipulation.

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 amended 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 from the hearing requirement. The Board also vacates its order of January 21, 1999, accepting the original stipulation and settlement of the original complaint.

The amended complaint alleged that the respondent violated Sections 9(a), 9(b), and 39.5(6)(b) of the Environmental Protection Act (Act) (415 ILCS 5/9(a), 9(b), 39.5(6)(b) (1996)) and 35 Ill. Adm. Code 201.143, 201.144, 201.270(c), 201.302(a), and 254.302 by operating an existing emission source and air pollution control equipment without a permit, by operating a major stationary source without a permit, by failing to timely submit annual emission reports, and by operating a new emission source, air pollution control equipment without a permit, operating a Clean Air Act Permit Program permit source during malfunction of air pollution control equipment, constructing and operating a new emission source without a permit, and failing to control volatile organic emissions.

The amended stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. The

respondent neither admits nor denies the alleged violations and agrees to pay a total civil penalty of \$30,000. Respondent 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 amended stipulation and settlement agreement executed by the People of the State of Illinois and J.L. Clark, Inc., a Delaware corporation, for alleged violations at 2300 Sixth Street, Rockford, Winnebago County, Illinois and 2300 Wisconsin Avenue, Downers Grove, DuPage County, Illinois. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. The respondent shall pay the sum of \$25,000 within 30 days from January 21, 1999, the date the Board adopted a final opinion and order approving the original stipulation and proposal for settlement filed on December 3, 1998. Such payment shall be made by two certified checks or money orders payable to the Treasurer of the State of Illinois. The first check shall be in the amount of \$2,159 designated to the Illinois Environmental Protection Clean Air Act Permit Fund (091). The second check shall be in the amount of \$22,841 designated to the Environmental Protection Trust Fund. The case number, case name, and the respondent's federal employer identification number 36-3582485 shall also be included on both checks (or money orders). The Illinois Environmental Protection Agency received respondent's payment of \$25,000 on February 19, 1999.
3. The respondent shall pay an additional civil penalty of \$5,000 within 30 days of the date of this order, on or before July 17, 1999. Such payment shall be made by certified check payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund. The case number, case name, and the respondent's federal employer identification number 36-3582485 shall also be included on the check (or money order).
4. The check (or money order) 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 payment transmittal and check shall be simultaneously submitted to:

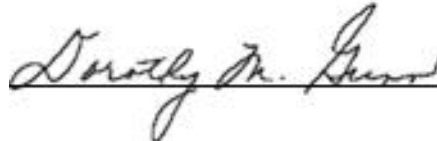
Johnna J. Potthoff
Assistant Attorney General
Environmental Bureau
Attorney General's Office
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601

5. 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. 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 the date of service of this order. Illinois Supreme Court Rule 335 establish such filing requirements. See 172 Ill. 2d R. 335; see also 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 17th day of June 1999 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board