

ILLINOIS POLLUTION CONTROL BOARD
October 25, 1990

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 90-13
) (Enforcement)
)
ABC RAIL CORPORATION,)
a Delaware corporation,)
)
Respondent.)

RICHARD VERKLER APPEARED ON BEHALF OF THE COMPLAINANT.

RANDALL VICKERY APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by R. C. Flemal):

This matter comes before the Board upon a complaint filed January 25, 1990, on behalf of the People of the State of Illinois ("People"), by and through its attorney, Neil F. Hartigan, Attorney General of the State of Illinois, against ABC Rail Corporation ("ABC"), located in Chicago Heights, Cook County, Illinois. The complaint alleges that ABC has violated Section 9(b) of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1989, ch. 111 $\frac{1}{2}$, pars. 1001, et. seq., and 35 Ill. Adm. Code 201.144 of the Board's rules and regulations.

Hearing on this matter was held March 29, 1990, in Chicago, Illinois. At hearing, the parties submitted a Stipulation and Settlement Agreement, executed by the parties. ABC does not admit the alleged violations. ABC agrees to pay a civil penalty of one thousand dollars (\$1,000).

The Board has authority to impose a penalty where the parties have stipulated to a penalty, but not to a finding of violation. See, Chemetco, Inc. v. Illinois Pollution Control Board, 140 Ill. App.3d 283, 488 N.E.2d 639, 643 (5th Dist. 1986); and Archer Daniels Midland v. Pollution Control Board, 140 Ill. App.3d 823, 489 N.E.2d 887 (3rd Dist. 1986).

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 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 ABC Rail Corporation concerning ABC's operations located in Chicago Heights, Cook County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2.) ABC shall pay the sum of one thousand dollars (\$1,000) 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

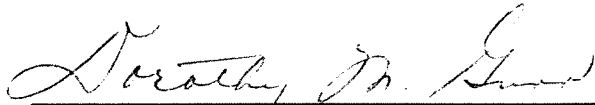
ABC shall also write its Federal Employer Identification Number or Social Security Number on the certified check or money order.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1989, ch. 111 $\frac{1}{2}$, par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

Board Members J. Dumelle and J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 25th day of October, 1990, by a vote of 5-2.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board