

limits and standards in the Discharge Monitoring Reports that Illinois Cement submitted to the complainant between January 1992 and December 1996. Illinois Cement neither admits nor denies these violations. Illinois Cement agrees to pay a civil penalty of \$20,500 and to perform a supplemental environmental project (SEP). If Illinois Cement fails to perform the SEP, or if other stated conditions occur, Illinois Cement agrees to pay an additional \$9,500.

The Board finds the stipulation and settlement agreement acceptable under 35 Ill. Adm. Code 103.180. This stipulation and 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 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 (complainant) and Illinois Cement Company (Illinois Cement), a joint venture, regarding its facility located at 1601 Rockwell Road, LaSalle, LaSalle County, Illinois. The amended stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. Illinois Cement shall pay the sum of \$20,500 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 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, Illinois 62794-9276

The certified check or money order shall indicate Illinois Cement's federal employer identification number 75-6179994 and that payment is directed to the Environmental Protection Trust Fund.

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in Section 1003(a) of the Illinois Income Tax Act, (35 ILCS 5/1003 (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. Illinois Cement shall connect Outfall 001, as described in its NPDES Permit No. IL0038296, to the publicly-owned treatment works (POTW) within 180 days of issuance by the Illinois Environmental Protection Agency (Agency) of the construction permit for the local POTW connection. The local POTW connection shall be permanent and shall thereby eliminate any and all discharge of water pollution, or threat of water pollution, from Outfall 001 into the Vermilion River and its tributaries. By signing the incorporated amended stipulation and settlement agreement, Illinois Cement represents that it is not required to perform the SEP by any federal, State or local laws, regulations or ordinances, or by agreement or injunctive relief in connection with any other judicial or administrative proceeding.
4. Illinois Cement shall obtain all necessary permit authorizations from the Agency prior to the implementation of the SEP. This includes a construction permit for the local POTW connection and any necessary revisions or modifications to the existing NPDES permit.
5. Within 14 days of completing the local POTW connection, Illinois Cement shall submit to the IEPA and the Illinois Attorney General's Office a written certification that the SEP has been fully implemented pursuant to the incorporated amended stipulation and settlement agreement. The submittal shall also indicate the date the SEP was completed. The notification shall be submitted to the following:

Robb Layman
Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276

Mary Rose Silva
Assistant Attorney General
Environmental Bureau
100 West Randolph St. 11th Fl.
Chicago, Illinois 60601
6. In the event that Illinois Cement is precluded from completing the connection of Outfall 001 to the local POTW as a result of failure to obtain the necessary approval from any federal, State or local authorities, then Illinois Cement shall remit the balance of the mitigated civil penalty to the complainant. In addition, Illinois Cement shall remit the balance of the mitigated civil penalty to the complainant in the event that the connection of Outfall 001 is otherwise required by current federal, state or local laws, regulations or ordinances. The \$9,500

shall be paid within 30 days of said determination. Such payment shall be submitted as in paragraph 2 of this order.

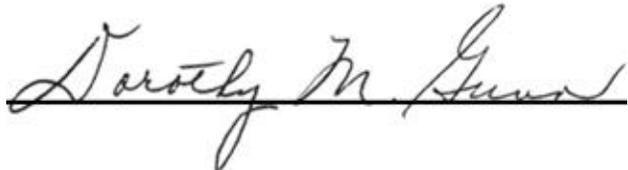
7. Should Illinois Cement publicize the SEP or make any statement concerning the SEP in a news medium, Illinois Cement shall include a statement that the SEP was undertaken in connection with the settlement of an enforcement action taken by the State of Illinois for alleged violations of the State's environmental laws and the Pollution Control Board's Regulations. The term news medium, as used herein, shall have the meaning assigned to that term in Section 8-902(b) of the Illinois Code of Civil Procedure. 735ILCS 5/8-902(b) (1996).
8. Illinois Cement 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 (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 10th day of July 1997, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board