

ILLINOIS POLLUTION CONTROL BOARD

June 20, 1996

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 96-145
)	(Enforcement - Air, Land)
SCHMIDT BROS. LANDSCAPING &)	
EXCAVATING, INC., an Illinois)	
corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by J. Theodore Meyer):

This matter comes before the Illinois Pollution Control Board (Board) upon a three-count complaint filed December 27, 1995, by the Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency and the People of the State of Illinois, against Schmidt Bros. Landscaping & Excavating, Inc. (Schmidt), an Illinois Corporation, located at 24222 South Cicero Avenue, Monee, Will County, Illinois. The complaint alleges that Schmidt violated Sections 9(a), 9(c), 21(a), and 21(p) of the Illinois Environmental Protection Act (Act) (415 ILCS 5/9(a), 5/9(c), 5/21(a), and 5/21(p)) and 35 Ill. Adm. Code 201.141, and 237.102(a) for open dumping, open burning and causing or allowing air pollution.

Pursuant to 415 ILCS 5/31(a)(2), the parties filed a joint motion requesting relief from the Act's hearing requirement on April 26, 1996. The Board published a notice of the waiver on April 30, 1996; no objection to the granting of the waiver was received. Waiver of hearing is hereby granted.

The parties filed a Stipulation and Settlement Agreement on April 26, 1996. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Schmidt admits the alleged violations and agrees to pay a civil penalty of five thousand dollars (\$5,000.00).

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 Schmidt Bros. Landscaping & Excavating, Inc. (Schmidt), an Illinois Corporation, located at 24222 South Cicero Avenue, Monee, Will County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) Schmidt shall pay a total sum of five thousand dollars (\$5,000.00). Payment shall be made pursuant to the following schedule:
 - a. \$1,400.00 within thirty (30) days from the date of this final Board order approving the parties stipulation and proposal for settlement; and
 - b. \$600.00 every six (6) months thereafter until payment is made in full.

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

The certified check or money order shall clearly indicate on its face, Schmidt's Federal Employer Identification Number 36-2781693 and that payment is directed to the Environmental Protection Trust Fund. A copy of the payment transmittal and check shall be simultaneously submitted to:

Alyssa L. Fron
Environmental Bureau
Illinois Attorney General's Office
100 West Randolph Street
Chicago, Illinois 60601

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.

- 3) Schmidt shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (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 _____ day of _____, 1996, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board