## ILLINOIS POLLUTION CONTROL BOARD February 19, 1998

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)
) PCB 96-75
) (Enforcement - Air)
)

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

On February 11, 1998, complainant filed a motion for extension of time for payment of penalty. As this is a request to amend a final order of the Board we will view the complainant's request as a motion to reconsider the Board's order of January 8, 1998. The motion states that it is submitted in the "interest of justice" and in response to a letter from respondent of February 2, 1998. Complainant indicates that the respondent might be financially able to pay the penalty assessed on January 8, 1998, in three quarterly installments beginning June 1, 1998.

In ruling upon a motion for reconsideration, the Board is to consider factors including, but not limited to, error in the previous decision and facts in the record which are overlooked. 35 Ill. Adm. Code 101.246(d). In <u>Citizens Against Regional Landfill v. County Board of Whiteside County</u> (March 11, 1993), PCB 93-156, the Board stated that "[t]he intended purpose of a motion for reconsideration is to bring to the court's attention newly-discovered evidence which was not available at the time of the hearing, changes in the law, or errors in the court's previous application of the existing law." <u>Korogluyan v. Chicago Title & Trust Co.</u>, 213 Ill. App.3d 622, 572 N.E.2d 1154 (1st Dist. 1992).

The Board will grant the motion to reconsider and grant the relief requested by complainant. The financial situation of respondent is newly discovered evidence and the Board agrees that extending the payment of the penalty is warranted in this case. For convenience, the Board will set out the order in its entirety.

## ORDER

- 1. The Board finds that Harvey Cash d/b/a Cash Oil Company (respondent) violated Sections 9(a) and (c), 9.1(d)(1), and 21(a) of the Illinois Environmental Protection Act (415 ILCS 5/9(a) and (c), 9.1(d)(1), and 21(a) (1994).
- 2. Respondent will cease and desist from violations of the Act and the Board's regulations.

3. Respondent shall pay a civil penalty in the amount of \$1,500 by certified check or money order made payable to the Environmental Protection Trust Fund in three quarterly installments being due on or before June 1, 1998, September 1, 1998, and December 1, 1998. Respondent shall send the payment by First Class Mail to:

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

Respondent shall write the case name and number and his social security or federal employer identification number on the certified check or money order.

4. Penalties unpaid after the due date shall accrue interest pursuant to Section 42(g) of the Environmental Protection Act. 415 ILCS 5/42(g) (1996).

## 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 order was adopted on the 19th day of February 1998, by a vote of 6-0.

Dorothy M. Gunn, Clerk Illinois Pollution Control Board

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