

ILLINOIS POLLUTION CONTROL BOARD
October 1, 1998

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 98-58
) (Enforcement - RCRA, Land)
STEPHEN BERGER d/b/a LAYER ONE,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by K.M. Hennessey):

On August 27, 1998, the parties filed a stipulation and proposal for settlement. The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. The complaint alleged that respondent violated Sections 21(a), 21(d), 21(e), 21(i), and 21(j) of the Environmental Protection Act (Act) (415 ILCS 5/21(a), 21(d), 21(e), 21(i), 21(j) (1996)) and 35 Ill. Adm. Code 722.111, 722.112, 722.120(a), 722.130, 722.131, 722.132, 722.133, 728.107, 808.121, and 808.122 by failing to make a hazardous waste determination; offering hazardous waste to a transporter without an Environmental Protection Agency identification number; failing to prepare a waste manifest; failing to properly package, label, and mark hazardous waste; failing to provide placard; failing to determine land disposal restriction; failing to prepare a special waste manifest; failing to meet various special waste requirements; open dumping; and failing to dispose of waste at a proper site or facility.

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 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 of the hearing requirement.

The stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. Respondent admits the alleged violations and agrees to pay a civil penalty of \$6,000. 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

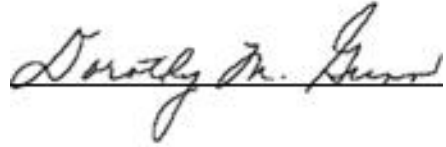
1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and the respondent, Stephen Berger d/b/a Layer One, located at 909 South Main Street, Rockford, Winnebago County, Illinois. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. The respondent shall pay the sum of \$6,000 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. The case number, case name, and respondent's social security number (012-26-1917) shall also be included on the check (or money order) and should clearly indicate that payment is directed to the Environmental Protection Trust Fund.
3. 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
4. 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.
5. 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 service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 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 1st day of October 1998 by a vote of 7-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board