

ILLINOIS POLLUTION CONTROL BOARD
April 22, 1993

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 93-50
) (Enforcement)
TRI-STATE METAL COMPANY, a)
Delaware Corporation,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by J. C. Marlin):

This matter comes before the Board upon a complaint filed March 10, 1993 on behalf of the People of the State of Illinois, by and through its attorney, Roland W. Burris, Attorney General of the State of Illinois, against Tri-State Metal Company, located in Chicago, Cook County, Illinois. The complaint alleges that Tri-State Metal Company has violated Sections 9(a) and 9(b) of the Environmental Protection Act ("Act"), 415 ILCS 5/9(a) (1992) and 5/9(b), and 35 Ill. Adm. Code 201.144 of the Board's regulations.

Pursuant to Section 31(a)(1) of the Act, a joint Motion requesting relief from the Act's hearing requirement was filed by the parties on March 10, 1993. Notice of the waiver was published by the Board on March 18, 1993; no objection to grant of the waiver was received. Waiver of hearing is granted by the Board via today's opinion and order.

A Stipulation and Settlement Agreement was filed by the parties on March 10, 1993. The Stipulation sets forth facts pertaining to the nature, operations, and circumstances surrounding the claimed violations. Although the complaint alleges violations of section 9(a) and 9(b) of the Act, Tri-State Metal Company, admits only to past violations of Section 9(b) of the Act. Additionally, Tri-State admits to past violations of 35 Ill. Adm. Code 201.144 and agrees to pay a civil penalty of Ten Thousand Dollars (\$10,000.00). Tri-State Metal Company further agrees to cease and desist from the alleged violations.

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.

0141-0269

ORDER

- 1) The Board hereby accepts the Stipulation and Settlement Agreement executed by the People of the State of Illinois and Tri-State Metal Company, concerning violations of Section 9(b) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/9(b) (1992), and 35 Ill. Adm. Code 201.144 by Tri-State Metal Company, located in Chicago, Cook County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) Tri-State Metal Company, shall pay the sum of Ten Thousand Dollars (\$10,000.00) within 30 days of the date of this Order. Such payment must 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 must 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

Tri-State Metal Company, shall also write its Federal Employer Identification Number or Social Security Number on the certified check or money order.

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 5/1003 of the Illinois Income Tax Act, (35 ILCS 5/1003 (1992)), 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) Tri-State Metal Company shall cease and desist from the alleged violations.

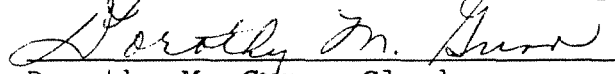
Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1992)) provides for appeal of final orders of the Board within 35 days. The rules of the Supreme Court of Illinois establish filing requirements. (But see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration, and Castenada v. Illinois Human Rights Commission (1989), 132 Ill. 2d 304, 547 N.E.2d 437 and Strube v. Illinois Pollution Control Board, No. 3-92-0468, slip op. at 4-5 (3d Dist. March 15, 1993).)

0141-0270

IT IS SO ORDERED.

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 22nd day of April, 1993, by a vote of 5-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board