

ILLINOIS POLLUTION CONTROL BOARD  
September 9, 1993

PEOPLE OF THE STATE	)	
OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 93-144
	)	(Enforcement)
ANCHOR GLASS	)	
CONTAINER CORPORATION,	)	
a Delaware corporation,	)	
	)	
Respondents.	)	

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

This matter comes before the Board upon a complaint filed July 30, 1993 by, Roland W. Burris, Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency and the people of the State of Illinois, against Anchor Glass Corporation ("Anchor Glass Corp."), a Delaware Corporation, located in LaSalle County, Illinois. The complaint alleges that Anchor Glass Corp. has violated Section 9(a) and 9(b) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/9(a) and 9(b), and 35 Ill. Adm. Code 201.143 of the Illinois Pollution Control Board's ("Board") rules and regulations.

Pursuant to 415 ILCS 5/31(a)(1), a joint Motion requesting relief from the Act's hearing requirement was filed by the parties on July 30, 1993. Notice of the waiver was published by the Board on August 5, 1993; no objection to grant of the waiver was received. Waiver of hearing is hereby granted.

A Stipulation and Settlement Agreement was filed by the parties on July 30, 1993. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Anchor Glass Corp. denies the alleged violations. Anchor Glass Corp. agrees to pay a civil penalty of One Thousand Dollars (\$1,000.00).

The Board has authority to impose a penalty where the parties have stipulated to a penalty, but not to a finding of violation. See, Chemetco, Inc. v. Illinois Pollution Control Board, 140 Ill. App.3d ,283, 488 N.E.2d 639, 643 (5th Dist. 1986); and Archer Daniels Midland v. Pollution Control Board, 140 Ill.App.3d 823, 489 N.E.2d 887 (3rd Dist. 1986).

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 Anchor Glass Corp., concerning their operations located in LaSalle, County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) Anchor Glass Corp. shall pay the sum of One Thousand Dollars (\$1,000.00). 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

Anchor Glass Corp. shall also write their 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 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.

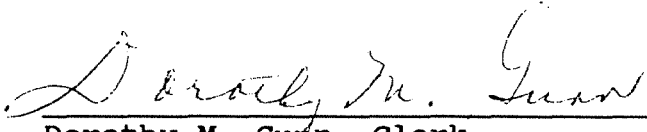
- 3) Anchor Glass Corp. shall cease and desist from the alleged violations.

IT IS SO ORDERED.

J. Theodore Meyer dissented.

Section 41 of the Environmental Protection Act (415 ILCS 5/41) provides for the appeal of final Board orders within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motion 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 9<sup>th</sup> day of September, 1993, by a vote of 6-1.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board