

ILLINOIS POLLUTION CONTROL BOARD
January 7, 1993

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 92-149
) (Enforcement)
OAK VALLEY WOOD PRODUCTS, INC.,)
an Illinois corporation,)
)
Respondent.)

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

This matter comes before the Board upon a complaint filed October 8, 1992 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 Oak Valley Wood Products, Inc. located in Olney, Richland County, Illinois. The complaint alleges that Oak Valley Wood Products, Inc. has violated Sections 9(a) and 9(b) of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1991, ch. 111 $\frac{1}{2}$, pars. 1009(a) and 1009(b), and 35 Ill. Adm. Code 201.141, 201.142, 201.143 or 201.144 and 212.301 of the Board's rules and 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 December 2, 1992. Notice of the waiver was published by the Board on December 8, 1992; 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 December 2, 1992. The Stipulation sets forth facts pertaining to the nature, operations, and circumstances surrounding the claimed violations. Oak Valley Wood Products, Inc., admits to past violations of Sections 9(a) and 9(b) of the Act and 35 Ill. Adm. Code 201.141, 201.142, 201.143 or 201.144 and 212.301 and agrees to pay a civil penalty of Two Thousand Five Hundred Dollars (\$2,500.00). Oak Valley Wood Products, Inc. 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.

0138-0283

ORDER

- 1) The Board hereby accepts the Stipulation and Settlement Agreement executed by the People of the State of Illinois and Oak Valley Wood Products, Inc., concerning violations of Sections 9(a) and 9(b) of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1991, ch. 111½, pars. 1009(a) and 1009(b), and 35 Ill. Adm. Code 201.141, 201.142, 201.143 or 201.144 and 212.301 by Oak Valley Wood Products, Inc.'s operations located in Olney, Richland County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.

- 2) Oak Valley Wood Products, Inc., shall pay the sum of Two Thousand Five Hundred Dollars (\$2,500.00). The penalty will be paid in five installments of five hundred dollars (\$500.00). The installments shall be due every sixty (60) days with the first installment to be paid within sixty (60) days of the Board's 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

Oak Valley Wood Products, Inc., 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 1003 of the Illinois Income Tax Act, (Ill. Rev. Stat. 1991, ch. 120, par. 10-1003), 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) Oak Valley Wood Products, Inc. shall submit a copy of the 1991 income tax return filed on behalf of the corporation to demonstrate their financial inability to pay a higher penalty amount.

- 4) Oak Valley Wood Products, Inc. shall cease and desist from the alleged violations.

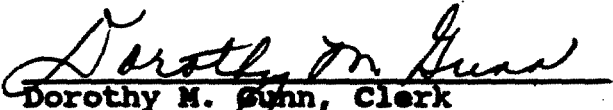
0138-0284

Section 41 of the Environmental Protection Act (Ill.Rev.Stat. 1991, Ch 111 1/2, par. 1041) 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.)

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 7th day of January, 1993, by a vote of 4-1.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

0138-0285