

ILLINOIS POLLUTION CONTROL BOARD  
January 7, 1993

PEOPLE OF THE STATE	)	
OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 92-190
	)	(Enforcement)
LOOP TRANSFER, 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 December 1, 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 Loop Transfer, Inc. located in Chicago, Cook County, Illinois. The complaint alleges that Loop Transfer, Inc. has violated Section 9(b) of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1991, ch. 111 $\frac{1}{2}$ , par. 1009(b), and 35 Ill. Adm. Code 201.143 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 1, 1992. Notice of the waiver was published by the Board on December 10, 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 1, 1992. The Stipulation sets forth facts pertaining to the nature, operations, and circumstances surrounding the claimed violations. Loop Transfer, Inc., admits to past violations of both Sections 9(a) and 9(b) of the Act and 35 Ill. Adm. Code 201.143 and agrees to pay a civil penalty of Seven Thousand Five Hundred Dollars (\$7,500.00). Loop Transfer, Inc. further agrees to cease and desist from the alleged violations.

The Board notes that the complaint does not allege a violation of Section 9(a). However, Section 103.210(a) of the Board's procedural rules provides that the pleadings may be amended to conform to the proof so long as no undue surprise results from the amendment. (35 Ill. Adm. Code 103.210(a).) The Board accordingly construes the stipulation as an agreed amendment to the complaint.

The Board finds the Settlement Agreement acceptable under 35

0138-0309

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 Loop Transfer, Inc., concerning violations of 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 201.143 by Loop Transfer, Inc.'s operations located in Chicago, Cook County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) Loop Transfer, Inc., shall pay the sum of Seven Thousand Five Hundred Dollars (\$7,500.00) 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

Loop Transfer, 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) Loop Transfer, Inc. shall cease and desist from the alleged violations.

Section 41 of the Environmental Protection Act

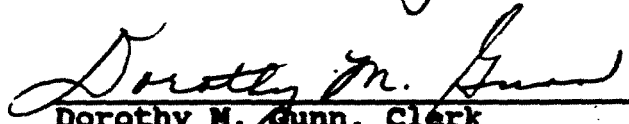
0138-0310

(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 7<sup>th</sup> day of January, 1993, by a vote of 4-1.

  
 Dorothy M. Gunn, Clerk  
 Illinois Pollution Control Board