

ILLINOIS POLLUTION CONTROL BOARD
January 20, 1994

PEOPLE OF THE STATE)	
OF ILLINOIS,)	
)	
)	
Complainant,)	
)	
v.)	PCB 93-258
)	(Enforcement)
CARL R. KIRCHHOFF,)	
d/b/a/ ALLFOAM INDUSTRIES,)	
an Illinois Corporation,)	
)	
)	
Respondent.)	

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

This matter comes before the Board upon a three-count complaint filed December 21, 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 Carl R. Kirchhoff, d/b/a Allfoam Industries (Allfoam), an Illinois Corporation located at 471 Monroe Street, in the City of Elmhurst, DuPage County, Illinois. The complaint alleges that Allfoam has violated Sections 9(a) and 9(b) of the Illinois Environmental Protection Act (Act), 415 ILCS 5/9(a), 5/9(b) and 35 Ill. Adm. Code §§ 201.142, 201.143, and 201.144 by operating and constructing emission sources without the required permits.

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 December 21, 1993. Notice of the waiver was published by the Board on December 29, 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 December 21, 1993. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Allfoam admits to the alleged violations and agrees to pay a civil penalty of nine thousand dollars (\$9,000.00).

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 Carl R. Kirchhoff, d/b/a/ Allfoam Industries, concerning its facility located at 471 Monroe Street, in the City of Elmhurst, DuPage County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) Allfoam Industries shall pay the sum of nine thousand dollars (\$9,000.00) 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, 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

Allfoam Industries 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, (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) Allfoam Industries shall cease and desist from further violations of the Act and the Board's regulations.
- 4) Allfoam Industries shall continue to maintain a current operating permit for all its emission sources and control equipment.

IT IS SO ORDERED.

Board Member J. Theodore Meyer concurred.

Section 41 of the Environmental Protection Act (415 ILCS 5/41) provides for the appeal of final Board orders within 35 days of the date of service of this order. (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 20th day of January, 1994, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board