

ILLINOIS POLLUTION CONTROL BOARD
January 9, 1992

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 90-184
) (Enforcement)
HOPPER PAPER DIVISION, GEORGIA)
PACIFIC CORPORATION, a foreign)
corporation, and TAYLORVILLE)
SANITARY DISTRICT, a municipal)
corporation,)
)
Respondents.)

JAMES L. MORGAN APPEARED ON BEHALF OF THE COMPLAINANT.

RONALD T. ALLEN APPEARED ON BEHALF OF THE RESPONDENT, HOPPER PAPER DIVISION.

ROBERT BROVERMAN APPEARED ON BEHALF OF THE RESPONDENT, TAYLORVILLE SANITARY DISTRICT.

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

This matter comes before the Board upon a complaint filed October 10, 1990 on behalf of the Illinois Environmental Protection Agency ("Agency"), by and through its attorney, Roland W. Burris, Attorney General of the State of Illinois, against Hooper Paper Division, Georgia Pacific Corporation, a foreign corporation, and against Taylorville Sanitary District, located in Taylorville, Christian County, Illinois. The complaint alleges that Hopper Paper Division has violated Sections 12(a), (f) and (h) of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1989, ch. 111½, pars. 1001, et. seq., and 35 Ill. Adm. Code 306.102, 310.202, 307.1101(a), (b)(2), (3) and (4), 310.211, 310.201(a) and 307.1101(b)(10) of the Board's rules and regulations. As against Taylorville Sanitary District, the complaint alleges that respondent violated Section 12(f) of the Act and 35 Ill. Adm. Code 310.210(a).

On October 2, 1991 the parties submitted a Stipulation and Settlement Agreement and a Partial Stipulation and Settlement Agreement, executed by the parties. Hopper Paper Company denies the alleged violations. Hopper Paper Company agrees to pay a civil penalty of Thirty Five Thousand Dollars (\$35,000.00).

Taylorville Sanitary District admits to past violations of Section 12(f) of the Act and 35 Ill. Adm. Code 310.210(a) and agrees to pay a civil penalty of One Thousand Dollars (\$1,000.00). Taylorville Sanitary District further agrees to cease and desist from the alleged violations.

The Board has authority to impose a penalty where a party has 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 respondents' responsibilities 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 Illinois Environmental Protection Agency and Hopper Paper Division, Georgia Pacific Corporation, a foreign corporation, concerning its operations in Christian County, Illinois and Taylorville Sanitary District concerning its operations located in Christian County, Illinois. The Stipulation and Settlement Agreement and Partial Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2.) Hopper Paper Division, Georgia Pacific Corporation shall pay the sum of Thirty Five Thousand Dollars (\$35,000.00) 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

Hopper Paper Division, Georgia Pacific Corporation 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. 1989, ch. 120, par. 10-1003), as now or hereafter amended, from the date of 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. Hopper Paper Division, Georgia Pacific Corporation shall cease and desist from the alleged violations.
4. Taylorville Sanitary District shall pay the sum of One Thousand Dollars (\$1,000.00) 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
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Taylorville Sanitary District 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. 1989, ch. 120, par. 10-1003), as now or hereafter amended, from the date of 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.

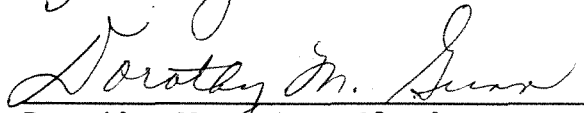
5. Taylorville Sanitary District shall cease and desist from the alleged violations.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1987, ch. 111½, 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.

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 9th day of January, 1992, by a vote of 5-1.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board