

ILLINOIS POLLUTION CONTROL BOARD  
August 13, 1992

ILLINOIS ENVIRONMENTAL )  
PROTECTION AGENCY, )  
 )  
 )  
Complainant, )  
 )  
v. ) PCB 90-63  
 ) (Enforcement)  
CITY OF EAST MOLINE, )  
 )  
Respondent. )

PAMELA M. CIARROCCHI, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT;

WILLIAM PHARES, PHARES & CHICKRIS, APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by R.C. Flemal):

This matter comes before the Board upon a complaint filed April 18, 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 the City of East Moline, located in Rock Island County, Illinois (East Moline). The complaint alleges that East Moline has violated Section 12(a) of the Illinois Environmental Protection Act (Act), Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1012(a), and 35 Ill. Adm. Code 304.105 of the Board's rules and regulations.

A hearing was held on July 14, 1992 in Rock Island, Illinois. The parties presented a Stipulation and Proposal for Settlement (Settlement Agreement) at hearing.

The Settlement Agreement sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. East Moline neither admits nor denies the alleged violations. East Moline agrees to pay a civil penalty of seven thousand five hundred dollars (\$7,500)<sup>1</sup>.

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 (5th Dist. 1986), 140 Ill. App.3d ,283, 488 N.E.2d 639,

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<sup>1</sup> The Board notes that the Settlement Agreement also discusses the adjusted standard petition by East Moline currently pending before the Board, AS 90-9. We have reviewed the Settlement Agreement and believe that it does not prejudice the outcome on the adjusted standard request.

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643; and Archer Daniels Midland v. Pollution Control Board (3rd Dist. 1986), 140 Ill.App.3d 823, 489 N.E.2d 887.

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 Proposal for Settlement executed by the Illinois Environmental Protection Agency and the City of East Moline, concerning its operations located in Rock Island County, Illinois. The Stipulation and Proposal for Settlement are incorporated by reference as though fully set forth herein.
- 2) The City of East Moline shall pay the sum of seven thousand five hundred dollars (\$7,500.00) 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

The City of East Moline 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 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.

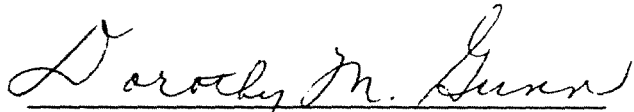
- 3) The City of East Moline shall cease and desist from the alleged violations.

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Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1991, 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. (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.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 13<sup>th</sup> day of August, 1992, by a vote of 7-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board