

ILLINOIS POLLUTION CONTROL BOARD
February 17, 1994

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 93-118
) (Enforcement)
 MARSICO MANUFACTURING CO.,)
 an Illinois Corporation,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by M. McFawn):

This matter comes before the Board upon a one-count complaint filed June 17, 1993, by Roland W. Burris, Attorney General of the State of Illinois, on behalf of the People of the State of Illinois, against Marsco Manufacturing Co. (Marsco), an Illinois Corporation with a plant located at 2857 S. Halsted, Chicago, Cook County, Illinois. The complaint alleges that Marsco violated Section 9(a) of the Illinois Environmental Protection Act (Act), 415 ILCS 5/9(a) and 35 Ill. Adm. Code §§212.321, 212.123, and 218.926.

Pursuant to 415 ILCS 5/31(a)(1), the parties filed a joint motion requesting relief from the Act's hearing requirement on June 17, 1993. The Board published a notice of the waiver on July 28, 1993; no objection to grant of the waiver was received.

On August 11, 1993 the parties filed a motion to postpone decision. The purpose was to allow the parties to negotiate issues relating to an operating permit denial (PCB 93-132) which could affect the terms of the stipulation in this case. The Board granted the motion to postpone by order of August 26, 1993, and granted a further postponement at the parties' request by order of November 4, 1993. The permit appeal was dismissed on December 2, 1993, pursuant to Marsco's motion for voluntary dismissal.

On January 21, 1994, the parties filed a joint motion to withdraw the June 17, 1993 stipulation and proposal for settlement and to replace it with a stipulation signed by Marsco and the other parties on various dates in January, 1994. That motion, which is in the nature of a motion to file an amended stipulation, is hereby granted. Since the joint motion has been construed as an amendment of the original filing, no additional notice of filing is required to be published. The Board notes that the parties reaffirmed the initial waiver, complainant filing a motion requesting waiver, and respondent filing a motion in support of the waiver request on January 26 and February 2, 1994, respectively.

The Stipulation and Settlement Agreement sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Marsco applies heat-barrier to glass for the appliance industry. This application process generates particulate matter (PM) and volatile organic compound (VOC) emissions. The Agency alleges that emissions from Marsco's operations have exceeded the air pollution limitations for PM, VOC, and opacity set forth at §§212.321, 218.926 and 212.123, respectively. The Agency contends that the alleged PM and VOC exceedances occurred at least as early as July 10, 1990 and August 16, 1991, respectively, and continued presumably until December 31, 1992 when Marsco completed installation of a Venturi scrubber to control both pollutants. The Agency contends the opacity violations occurred intermittently beginning July 10, 1990. Marsco neither admits to nor denies the alleged violations and agrees to pay a civil penalty of twenty-five thousand dollars (\$25,000.00).

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 Amended Stipulation and Settlement Agreement executed by the People of the State of Illinois and Marsco Manufacturing Co. concerning its facility located at 2857 S. Halsted, Chicago, Cook County, Illinois. The Amended Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) Marsco Manufacturing Co. shall pay the sum of twenty-five thousand dollars (\$25,000.00) 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

The certified check or money order shall clearly indicate on its face, Marsco Manufacturing Co.'s Federal Employer Identification Number or Social Security Number and that the payment is directed to the Environmental Protection Trust Fund.

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.

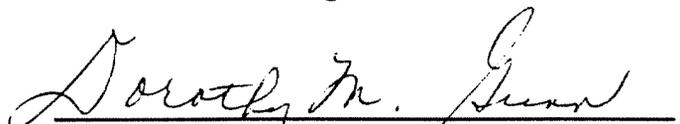
- 3) Marsco Manufacturing Co. shall cease and desist from the alleged violations.

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, "Motions 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 17th day of February, 1994, by a vote of 6-0.


 Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board