

ILLINOIS POLLUTION CONTROL BOARD  
May 5, 1994

PEOPLE OF THE STATE )  
OF ILLINOIS, )  
 )  
 )  
 Complainant, )  
 )  
 v. ) PCB 94-102  
 ) (Enforcement)  
 APV ROCKFORD, INC., )  
 a Delaware Corporation, )  
 )  
 )  
 Respondent. )

OPINION AND ORDER OF THE BOARD:

This matter comes before the Board upon a two-count complaint filed March 29, 1994, 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 APV Rockford, Inc., a Delaware Corporation located at 1303 Samuelson Road, in the City of Rockford, Winnebago County, Illinois. The complaint alleges that APV Rockford, Inc. has violated Section 21(f) of the Illinois Environmental Protection Act (Act) and 35 Ill. Adm. Code §§ 722.134, 725.273, 725.131, 725.132, 725.134, and 725.137 for failure to properly manage hazardous waste containers and to comply with emergency preparedness regulations.

Pursuant to 415 ILCS 5/31(a)(1), the parties filed a joint Motion requesting relief from the Act's hearing requirement on March 29, 1994. The Board published a notice of the waiver on March 31, 1994; no objection to grant of the waiver was received. Waiver of hearing is hereby granted.

The parties filed a Stipulation and Settlement Agreement on March 29, 1994. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. APV Rockford, Inc. denies the alleged violations and agrees to pay a civil penalty of Seven thousand five hundred dollars (\$7,500.00).

Where the respondent did not admit a violation in the settlement agreement the Board nonetheless has the authority to approve such agreement. (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 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 APV Rockford, Inc. concerning its facility located at 1303 Samuelson Road, in the City of Rockford, Winnebago County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) The APV Rockford, 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 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, the APV Rockford, Inc.'s Federal Employer Identification Number or Social Security Number and that 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.

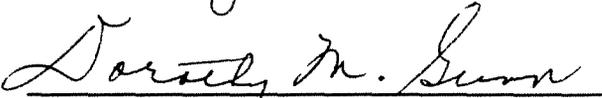
- 3) APV Rockford, Inc. shall cease and desist from the alleged violations.

IT IS SO ORDERED.

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 5<sup>th</sup> day of May, 1994, by a vote of 6-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board