

ILLINOIS POLLUTION CONTROL BOARD  
February 4, 1993

PEOPLE OF THE STATE )  
OF ILLINOIS, )  
 )  
Complainant, )  
 )  
v. ) PCB 92-71  
 ) (Enforcement)  
THE VALSPAR CORPORATION, )  
a Delaware Corporation, )  
 )  
Respondent. )

MICHAEL FRANKLIN APPEARED ON BEHALF OF COMPLAINANT.

OPINION AND ORDER OF THE BOARD (by B. Forcade):

This matter comes before the Board upon a complaint filed May 7, 1992 on behalf of the People of the State of Illinois, by and through its attorney, Roland W. Burris, Attorney General of the State of Illinois, against The Valspar Corporation, a Delaware Corporation located in Chicago, Cook County, Illinois. The complaint alleges that Valspar Corporation, has violated Section 21(i) of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1991, ch. 111½, par. 1021(i), and 35 Ill. Adm. Code 722.141(a) of the Board's rules and regulations.

Hearing on this matter was held on December 17, 1992 in Chicago, Illinois. At hearing, the parties agreed to submit a Stipulation and Settlement Agreement. On January 25, 1993 the parties filed a Stipulation and Proposal for Settlement executed by the parties. Valspar Corporation does not admit to past violations of Section 21(i) of the Act, Ill.Rev.Stat. 1991, ch. 111 1/2, par. 1021(i), and 35 Ill. Adm. Code 722.141(a). Valspar Corporation agrees to pay a civil penalty of Seventeen Thousand Five Hundred Dollars (\$17,500.00).

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, 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.

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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 Illinois Environmental Protection Agency and Valspar Corporation, concerning their operations located in Chicago Illinois, Cook County. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
2. Valspar Corporation, shall pay the sum of Seventeen thousand five hundred dollars (\$17,500.00) 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 Hazardous Waste 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

Valspar 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. Valspar Corporation shall cease and desist from the alleged violations.

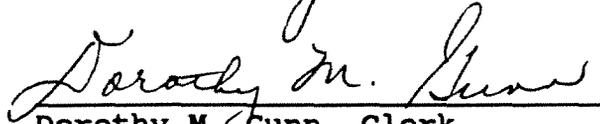
IT IS SO ORDERED.

J. Theodore Meyer dissented.

Section 41 of the Environmental Protection Act (Ill.Rev.Stat. 1991, Ch 111 1/2, 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.)

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I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 4<sup>th</sup> day of February, 1993, by a vote of 5-1.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

0139-0019