

ILLINOIS POLLUTION CONTROL BOARD
September 12, 1991

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 91-78
) (Enforcement)
SURE PLUS MANUFACTURING)
CO., an' Illinois Corporation,)
)
Respondent.)

CHRISTINE S. BUCKO, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT THE PEOPLE OF THE STATE OF ILLINOIS.

RESPONDENT APPEARED PRO SE.

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

This matter comes before the Board upon a complaint filed on May 7, 1991, by Roland W. Burris, Attorney General of the State of Illinois, on behalf of the People of the State of Illinois, against respondent, Sure Plus Manufacturing Company (Sure Plus). The complaint alleges that Sure Plus operated its Chicago Heights, Cook County, Illinois facility in violation of Section 9(b) of the Illinois Environmental Protection Act (Act) (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1009 (b)) and Sections 201.142 and 201.143 of the Board's air regulations. (35 Ill. Adm. Code 201.142 and 201.143.)

Hearing was held on this matter on June 18, 1991 in Chicago, Illinois. At the hearing, the Attorney General read into the record a summary of the terms of a stipulated agreement. This "Stipulation of Facts and Proposed Settlement" was signed by the parties and sets forth the full statement of all material facts pertaining to the nature, operations and circumstances surrounding the claimed violations. Sure Plus neither admits nor denies the violations of the Act and Board regulations, but agrees to pay a penalty of one thousand five hundred dollars (\$1,500) into the Environmental Protection Trust Fund.

The Board has the authority to impose a penalty where the parties have stipulated to a penalty, but not to a finding of violation. (Chemetco, Inc. v. IPCB, 140 Ill. App. 3d 283, 488 N.E.2d 639 (5th Dist. 1986); Archer Daniels Midland Co. v. IPCB, 14 Ill. App. 3d 823, 489 N.E.2d 887 (3d 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 Boards's air pollution 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 of Facts and Proposed Settlement executed by the complainant and Sure Plus Manufacturing Company concerning violations of Section 9(b) of the Act and 35 Ill. Adm. Code 201.142 and 201.143. The Stipulation of Facts and Proposed Settlement are incorporated by reference as though fully set forth herein.
- 2.) Sure Plus shall pay the sum of one thousand five hundred dollars (\$1,500) 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

Sure Plus 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 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.) Respondent shall cease and desist from the alleged violations.

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

IT IS SO ORDERED.

J. Theodore Meyer dissents.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 12th day of September, 1991, by a vote of 6-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board