

ILLINOIS POLLUTION CONTROL BOARD
November 8, 1990

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 89-154
) (Enforcement)
ROLL SERVICE, INC.,)
)
Respondent.)

PAMELA CIARROCCHI APPEARED ON BEHALF OF COMPLAINANT.

SANFORD M. STEIN APPEARED ON BEHALF OF RESPONDENT.

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

This matter comes before the Board on a complaint filed on September 26, 1990, on behalf of the People of the State of Illinois, by and through its attorney, Neil F. Hartigan, Attorney General of the State of Illinois, against respondent Roll Service, Inc., located in South Holland, Cook County, Illinois. The complaint alleges that respondent has violated Section 9(b) of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1109(b)) and 35 Ill. Adm. Code 201.142 and 201.143 of the Board's regulations.

Hearing on this matter was held on September 24, 1990 in Chicago, Illinois. At the hearing, the parties submitted an executed Stipulation and Settlement Agreement. Respondent does not admit the alleged violations, but agrees to pay a civil penalty of \$3,500.

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, 643 (5th Dist. 1986; Archer Daniels Midland Co. v. PCB, 140 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 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 Board 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 and respondent concerning respondent's operations located in South Holland. The Stipulation and Settlement Agreement are incorporated by reference herein as though fully set forth.
- 2.) Roll Service, Inc. shall pay the sum of three thousand five hundred dollars (\$3,500) 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

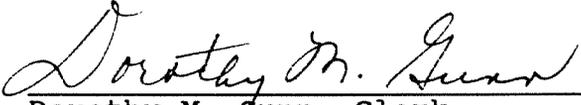
Roll Services, Inc. shall write its Federal Employer Identification Number or Social Security Number on the certified check or money order.

Section 41 of the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1041) provides for the appeal of final Board Orders within 35 days. The Rules of the Supreme Court establish filing requirements.

IT IS SO ORDERED.

J. D. Dumelle and J. Theodore Meyer dissent.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 8th day of November, 1990, by a vote of 5-2.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board