

ILLINOIS POLLUTION CONTROL BOARD
October 11, 1990

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Complainant,)
)
v.) PCB 90-73
) (Enforcement)
)
)
ILLINOIS CEMENT COMPANY,)
a joint venture,)
)
Respondent.)

RICHARD A. VERKLER APPEARED ON BEHALF OF THE COMPLAINT.

WALTER J. ZUKOWSKI APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by R. Flemal):

This matter comes before the Board upon a complaint filed April 20, 1990 on behalf of the People of the State of Illinois ("People"), by and through its attorney, Neil F. Hartigan, Attorney General of the State of Illinois, against Illinois Cement Company ("Illinois Cement") located in LaSalle, LaSalle County, Illinois. The four count complaint alleges that Illinois Cement has violated Sections 9(a) and (b) of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1989, ch. 111½, pars. 1001, et. seq., and 35 Ill. Adm. Code 230.770 and 212.306 of the Board's rules and regulations.

Hearing on this matter was held September 24, 1990 in Ottawa, LaSalle County, Illinois. At hearing, the parties submitted a Stipulation and Settlement Agreement, executed by the parties. Illinois Cement does not admit the alleged violations and in fact expressly denies the allegations. Illinois Cement agrees to pay a civil penalty of eight thousand dollars (\$8,000).

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, 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 Illinois Cement Company, concerning Illinois Cement Company's operations located in Ottawa, LaSalle County. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2.) Illinois Cement Company shall pay the sum of eight thousand dollars (\$8,000) 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

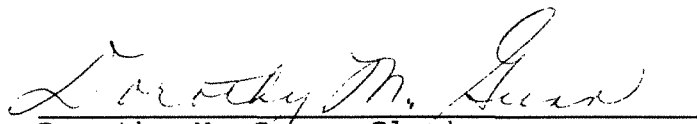
Illinois Cement Company shall also write its Federal Employer Identification Number or Social Security Number on the certified check or money order.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1989, ch. 111 $\frac{1}{2}$, 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.

Board Member J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 11th day of October, 1990, by a vote of 5-1.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board