

ILLINOIS POLLUTION CONTROL BOARD
February 19, 1987

ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Complainant,)
)
v.) PCB 86-166
)
AMERICAN STAIR CORPORATION, INC.,)
)
Respondent.)

MS. DIANE LOPATA, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF COMPLAINANT.

MR. LOUIS DINEFF, ATTORNEY AT LAW, APPEARED ON BEHALF OF RESPONDENT.

OPINION AND ORDER OF THE BOARD (by J.D. Dumelle):

This matter comes before the Board upon a four-count complaint filed on October 6, 1986 by the Illinois Environmental Protection Agency (Agency) against American Stair Corporation, Inc. (American).

The Agency alleges in Count I of its complaint that from May 17, 1982 to May 14, 1985 American failed to test its solid wastes to determine if the waste was a hazardous waste, thereby violating Section 21(i) of the Environmental Protection Act (Act) and 35 Ill. Adm. Code 722.111. The Agency alleges in Count II of its complaint that American failed to develop an employee training plan to ensure that the employee's duties, as they relate to hazardous waste, are conducted properly, thereby violating Section 21(i) of the Act. The Agency alleges in Count III of its complaint that American's contingency plan was deficient, thereby violating Section 21(i) of the Act. Lastly, the Agency alleges in Count IV of its complaint that American failed to manifest its waste shipments between March 31, 1979 and April 23, 1985, thereby violating Section 21(j) of the Act.

Hearings were held on December 22, 1986 and January 9, 1987. At the January 9 hearing, the parties presented a Proposal for Settlement for consideration by the Board.

American is a Delaware corporation authorized to do business in Illinois and operates a business located at 8600 South Archer Ave., Willow Springs which manufactures metal stairs. Paint utilized in this process generates solid waste.

The proposed settlement agreement provides that American contests the allegations in Count I of the complaint, namely, American failed to test its solid waste to determine if the waste was a hazardous waste, thereby violating Section 21(i) of the Act and Section 722.111, that American does not admit liability regarding Count I, that American promises, covenants and agrees not to engage in any activity in violation of Section 21(i) of the Act and Section 722.111 and that American agrees to pay the amount of \$1,000.00 to the Environmental Protection Trust Fund.

The Board notes that the settlement agreement explicitly settles the allegations in Count I of the complaint and, by agreeing not to engage in any activity in violation of Section 21(i) of the Act, implicitly resolves Counts II and III which alleged violations of Section 21(i) of the Act. However, nothing has been offered by either party as to Count IV of the complaint which alleged violations of Section 21(j) of the Act. The Board concludes that Count IV of the complaint has not been resolved and that no evidence has been presented by either side concerning Count IV. The Board intends to dispose of all allegations in the complaint and, therefore, dismisses Count IV of the complaint without prejudice.

In evaluating this enforcement action and proposed settlement agreement, the Board has considered all the facts and circumstances of the complaint in light of the criteria set forth in Section 33(c) of the Act and finds the settlement agreement acceptable under 35 Ill. Adm. Code 103.180. Accordingly, the Board will order American to cease and desist from further violations of Section 21(i) of the Act and 35 Ill. Adm. Code 722.111 at its Cook County facility and order American to pay the stipulated amount of \$1,000.00 to the Environmental Protection Trust Fund.

This Opinion constitutes the Board's finding of fact and conclusions of law in this matter.

ORDER

1. The Board hereby orders American Stair Corporation, Inc. to cease and desist from further violations of Section 21(i) of the Act and 35 Ill. Adm. Code 722.111 at its facility located at 8600 South Archer Ave., Willow Springs, Cook County, Illinois.
2. Within thirty days of the date of this Order, American Stair Corporation, Inc. shall pay \$1,000 (one thousand) which shall be in the form of a certified check or money order payable to the State of Illinois and designated into the Environmental Protection Trust Fund. Payment shall be sent to:

Illinois Environmental Protection Agency
Fiscal Services Division
2200 Churchill Road
Springfield, IL 62706

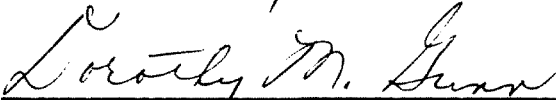
3. American Stair Corporation, Inc. shall comply with all the terms and conditions of the Settlement Agreement filed on January 9, 1987 which is incorporated by reference and attached hereto.
4. The Board hereby dismisses Count IV of the complaint without prejudice.

IT IS SO ORDERED.

Board Member Joan Anderson concurs.

Board Member 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 19th day of February, 1987 by a vote of 5-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

SETTLEMENT AGREEMENT

This agreement enter into this 9th day of January, 1987,
between the Illinois Environmental Protection Agency,(the "Agency"),
by its attorney NEIL F. HARTIGAN, Attorney General of the State of
Illinois, and American Stair Corporation ("American Stair")
witnesseth:

1. Whereas the Agency alleges that from May 17, 1982 to
May 14, 1985, American Stair generated solid waste as a result of
its business activity, and failed to test such solid waste to
determine if that waste was a hazardous waste and,
2. Whereas such an omission as stated in Paragraph 1, above
would constitute a violation of Section 21(i) of the Illinois
Environmental Protection Act, Ill. Rev. Stat. ch 111 1/2 par. 1021(i)
and 35 Ill. Adm. Code 722.111; and
3. Whereas American Stair contest the allegation of the Agency
set forth in Paragraph 1 above and does not admit liability in regard
thereto, but promises, covenants and agrees not to engage in any
activity in violation of Section 21(i) of the Illinois Environmental
Protection Act, Ill.Rev. Stat. ch 111 1/2 par.1021(i) and 35 Ill.
Adm. Code 722.111; and
4. The Agency and American Stair seek to compromise and
settle their controversy regarding the allegations set forth in
Paragraph 1 above, and in furtherance whereof American Stair
agrees to pay the sum of One Thousand (\$1,000.00) Dollars to the


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Environmental Protection Trust Fund,

Now therefore, the Agency agrees, in consideration of payment of the \$1,000.00 (One Thousand Dollars) to the Environmental Protection Trust Fund, to settle and compromise the controversy pending between American Stair and the Agency as set forth in Paragraph 1 above. The Agency does not however, in any manner or respect, waive or relinquish any claim or claims it now has or hereafter may have against any other persons, firms or corporations other than American Stair in connection with the aforesaid allegations set forth in Paragraph 1 above, nor does it waive or release any rights or claim or claims it now has or may have against American Stair with regard to any actions conditions or situations that may now exist or hereafter come into being at American Stair apart from the alleged acts and omissions set forth in Paragraph 1 above.

In witness thereof:

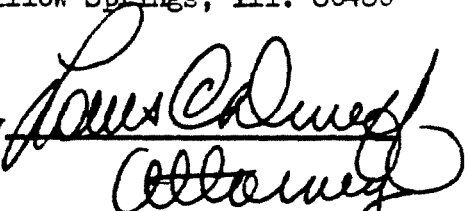
Office of the Attorney General
of the State of Illinois

By 
Assistant Attorney General

Subscribed and sworn to
before me this 9th day
of January, 1987

Betty Pastore
Notary Public

American Stair Corporation
One American Stair Plaza
Willow Springs, Ill. 60480

By 
(Title and Representative
Capacity)

Subscribed and sworn to
before me this 9th day
of January, 1987

Betty Pastore
Notary Public