

schedule a hearing.

BENTON – ACCEPTANCE OF STIPULATION AND SETTLEMENT

On August 20, 2001, complainant and Benton filed a stipulation and proposal for settlement, accompanied by a motion requesting relief from the hearing requirement of Section 31(c)(1) of the Act. 415 ILCS 5/31(c)(1) (2000). Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000)), the Board caused publication of the required newspaper notice of the stipulation and proposal for settlement and request for relief from the hearing requirement. The notice appeared in the *Auburn Citizen* on August 30, 2001. The Board did not receive any requests for hearing. Accordingly, the Board grants a waiver from the hearing requirement.

The stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. Benton denies the alleged violations of Sections 12(b) and 18 of the Act and Section 607.104(b) of the Board's regulations but agrees to pay a civil penalty of \$14,000.

The Board accepts the stipulation and proposal for settlement between complainant and Benton. Benton must continue to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's regulations.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and Benton & Associates, Inc. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. Benton must pay a civil penalty of \$14,000 within 30 days of the date of this order, that is, on or before October 20, 2001. Such payment must be made by certified check or money order payable to the Treasurer of the State of Illinois, for deposit in the Environmental Protection Trust Fund. The case number, case name, and Benton's Federal Employer Identification Number (37-0982997) must also be included on the certified check and clearly indicate that payment is directed to the Environmental Protection Trust Fund.
3. The check must be sent by first class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

A copy of the payment transmittal and check shall be simultaneously submitted to:

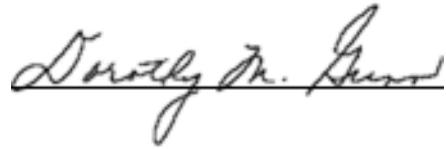
Office of the Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706

4. Any such penalty not paid within the time prescribed incurs interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003 (2000)), as now or hereafter amended, from the date payment is due until the date payment is received. Interest does not accrue during the pendency of an appeal during which payment of the penalty has been stayed.
5. Benton shall continue to comply with Sections 12(b) and 18 of the Illinois Environmental Protection Act (415 ILCS 5/12(b) and 18 (2000)) and 35 Ill. Adm. Code 607.104(b) of the Board's regulations. Benton must cease and desist from future violations of any federal, State, or local statutes and regulations, including the Act and the Board's regulations.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2000); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on October 4, 2001, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", is written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board