

ILLINOIS POLLUTION CONTROL BOARD

June 5, 1997

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 93-186
)	(Enforcement - Air)
EMCO CHEMICAL DISTRIBUTORS,)	
INC., an Illinois corporation,)	
)	
Respondent.)	

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

This matter comes before the Board upon a complaint originally filed on October 7, 1993 by the Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency and the People of the State of Illinois, against Emco Chemical Distributors, Inc. (Emco), an Illinois corporation, located at 2100 Commonwealth Avenue, North Chicago, Lake County, Illinois. On April 11, 1994 complainant filed a twenty-six count amended complaint. The complaint alleges that Emco violated Sections 9(a), 9(b), and 12(a) of the Illinois Environmental Protection Act (Act) (415 ILCS 5/9(a), 9(b), 12(a)(1994); 35 Ill. Adm. Code 201.141, 201.142, 201.143, and 201.149; and Permits #84100044 and #84110021, by causing or allowing the discharge or emission of a specified air contaminant and violating various conditions of its operating permits.

On April 15, 1997, the parties filed a stipulation, settlement agreement, and a joint motion requesting relief from the requirement of Section 31(c)(2) that proposed stipulation and settlement agreements be presented at hearing. (415 ILCS 5/31(c)(2) (Supp.1997). The Board published a notice of the waiver on April 18, 1997. No objection to the granting of the waiver was received. Accordingly, the Board grants a waiver from the hearing requirement.

The parties filed a stipulation and settlement agreement on April 15, 1997. The stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Emco neither admits nor denies the alleged violations and agrees to pay a civil penalty of twenty-two thousand eighty dollars (\$22,080.00) and perform two Supplemental Environmental Projects.

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 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 Emco Chemical Distributors, Inc. (Emco), an Illinois corporation, located at 2100 Commonwealth Avenue, North Chicago, Lake County, Illinois. The stipulation and settlement agreement are incorporated by reference as though fully set forth herein.
- 2) Emco shall pay a total sum of twenty-two thousand eighty dollars (\$22,080.00) within one hundred and eighty (180) days of the date of this order. Payment shall be made pursuant to the following schedule:
 - a. \$7,360.00 within sixty (60) days from the date of this final Board order approving the parties' stipulation and proposal for settlement; and
 - b. \$7,360.00 within one hundred and twenty days (120) from the date of this final Board order approving the parties' stipulation and proposal for settlement; and
 - c. \$7,360.00 within one hundred and eighty days (180) from the date of this final Board order approving the parties' stipulation and proposal for settlement.

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

The certified check or money order shall clearly indicate on Emco's Federal Employer Identification Number 36-2709818 and that payment is directed to the Environmental Protection Trust Fund.

- 3) In the event Emco fails to make any installment payments as required in the incorporated settlement agreement, all other payment(s) are accelerated and shall become immediately due and owing.
- 4) In the event Emco fails to comply with the Supplemental Environmental Project requirements specified in the incorporated settlement agreement, Emco shall pay

the balance of the forty-eight thousand dollars (\$48,000.00) gravity-based civil penalty demand specified in the settlement agreement within thirty (30) days of such noncompliance.

Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in Section 1003(a) of the Illinois Income Tax Act, (35 ILCS 5/1003 (1994)), 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.

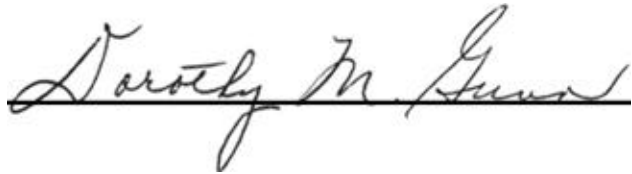
- 5) Emco shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Board Member J. Theodore Meyer dissented.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this opinion and order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration.")

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 5th day of June 1997, by a vote of 6-1.

A handwritten signature in dark ink, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board