

ILLINOIS POLLUTION CONTROL BOARD
November 4, 1993

PEOPLE OF THE STATE)	
OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 92-68
)	(Enforcement)
CHEM-PLATE INDUSTRIES, INC.,)	
a Illinois Corporation,)	
)	
Respondent.)	

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

This matter comes before the Board upon a complaint filed May 7, 1992, on behalf of the People of the State of Illinois ("People"), by and through its attorney, Roland W. Burris, Attorney General of the State of Illinois, against Chem-Plate Industries, Inc. ("Chem-Plate"), an Illinois Corporation located in Elk Grove Village, Cook County, Illinois. The complaint alleges that Chem-Plate has violated Section 21(i) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/21(i), and 35 Ill. Adm. Code 722.141(a) of the Board's rules.

Pursuant to 415 ILCS 5/31(a)(1), a joint motion requesting relief from the Act's hearing requirement was filed by the parties on March 1, 1993. The notice of the waiver was published by the Board on March 11, 1993. An objection to grant of the waiver was received on March 25, 1993, and the Board accordingly authorized a hearing. A hearing was held on July 13, 1993 in Chicago, Cook County, Illinois. No members of the public attended the hearing.

A Stipulation and Settlement Agreement was filed by the parties on February 26, 1993. The stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Chem-Plate neither admits nor denies the alleged violations. Chem-Plate agrees to pay a civil penalty of eight thousand dollars (\$8,000.00).

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, 289, 488 N.E.d 639, 643 (5th Dist. 1986); and Archer Daniels Midland v. Pollution Control Board, 140 Ill.App.3d 823, 489 N.E.d 887 (3rd Dist. 1986).

The Board finds the Settlement Agreement acceptable under 35 Ill. Adm. Code 103.180 with the following exception. Upon review

of the stipulation and settlement agreement, the Board finds that in paragraph (2), it must correct the designation of payment from the Hazardous Waste Fund to the Environmental Protection Trust Fund. The Board is without statutory authority to do otherwise, assuming that the parties desire payment into a special fund (rather than into the General Revenue Fund; see 30 ILCS 105/4, General Revenue Fund defined). Section 42(a) of the Environmental Protection Act authorizes the Board to order special fund payments to be made only into the Environmental Protection Trust Fund.

The Board takes special note that in paragraph (2) of this order it has designated the Environmental Protection Trust Fund in lieu of the Illinois Hazardous Waste Fund as stated in the stipulation and settlement agreement. The Board has taken this action in the interests of procedural economy. The parties are free to file a motion to reconsider this action. 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 Chem-Plate, concerning its operations located in Elk Grove Village, Cook County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) Chem-Plate Industries, Inc. shall pay the sum of eight thousand dollars (\$8,000.00). Payment shall be made in two installments; four thousand dollars (\$4,000.00) shall be paid within 60 days of the date of this order and the remaining four thousand dollars (\$4,000.00) shall be paid in 120 days of the date of this order. Such payments 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

Chem-Plate shall also write its Federal Employer Identification Number or Social Security Number on the certified check or money order.


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

- 3) Chem-Plate shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41) provides for the appeal of final Board orders within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246, Motion for Reconsideration.)

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above opinion and order was adopted on the 4th day of November, 1993, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board