

ILLINOIS POLLUTION CONTROL BOARD  
February 23, 1995

PEOPLE OF THE STATE	)	
OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 93-160
	)	(Enforcement-Air)
NAPERVILLE ASPHALT, INC.,	)	
an Illinois corporation,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by M. McFawn):

This matter comes before the Board upon a one-count complaint filed August 30, 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 Naperville Asphalt, Inc., an Illinois corporation located at 622 Route 34, in the City of Aurora, Kane County, Illinois. The complaint alleges that Naperville Asphalt, Inc. has violated Sections 9(b) and 9.1(d) of the Illinois Environmental Protection Act (Act), 415 ILCS 5/9(b), 5/9.1(d) by exceeding its opacity limits as set forth in its Operating Permit 87030079 and by violating 40 CFR 60.92 on June 29, 1989 and August 11, 1989.

Pursuant to 415 ILCS 5/31(a)(2), the parties filed a joint motion requesting relief from the Act's hearing requirement on January 23, 1995. The Board published a notice of the waiver on January 26, 1995; no objection to the granting of the waiver was received. Waiver of hearing is hereby granted.

The parties filed a Stipulation and Settlement Agreement on January 23, 1995. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Naperville Asphalt, Inc. admits the alleged violations and agrees to pay a civil penalty of two thousand dollars (\$2,000.00).

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 Naperville Asphalt, Inc., an Illinois corporation located at 622 Route 34, in the City of Aurora, Kane County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) Naperville Asphalt, Inc. shall pay the sum of two thousand dollars (\$2,000.00) 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

The certified check or money order shall clearly indicate on its face, Naperville Asphalt, Inc.'s Federal Employer Identification Number or Social Security Number and that payment is directed to the Environmental Protection Trust Fund.

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.

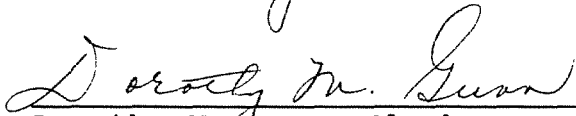
- 3) Naperville Asphalt, Inc. shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Board Member J. Theodore Meyer concurred.

Section 41 of the Environmental Protection Act (415 ILCS 5/41) provides for the appeal of final Board orders within 35 days of the date of service of this order. (See also 35 Ill. Adm. Code 101.246, Motion 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 23<sup>rd</sup> day of February, 1995, by a vote of 7-0.

  
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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board