

ILLINOIS POLLUTION CONTROL BOARD
May 5, 1994

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
)
 Complainant,)
)
 v.) PCB 94-109
) (Enforcement)
 DIETZGEN CORPORATION,)
 a Delaware Corporation,)
)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD:

This matter comes before the Board upon a four-count complaint filed April 6, 1994, by Roland W. Burris, Attorney General of the State of Illinois, on behalf of the Illinois Environmental Protection Agency and the People of the State of Illinois, against Dietzgen Corporation, a Delaware Corporation located at 250 Wille Road, in the City of Des Plaines, Cook County, Illinois. The complaint alleges that Dietzgen Corporation has violated Sections 9(a) and 9(b) of the Illinois Environmental Protection Act (Act), 415 ILCS 5/9(a), 5/9(b) and 35 Ill. Adm. Code §§ 201.141, 218.204, 218.207(b)(1) and (b)(2) and 218.105(d)(2) for operating and constructing emission sources without the proper permits.

Pursuant to 415 ILCS 5/31(a)(1), the parties filed a joint Motion requesting relief from the Act's hearing requirement on April 6, 1994. The Board published a notice of the waiver on April 12, 1994; no objection to grant of the waiver was received. Waiver of hearing is hereby granted.

The parties filed a Stipulation and Settlement Agreement on April 6, 1994. The Stipulation sets forth facts relating to the nature, operations and circumstances surrounding the claimed violations. Dietzgen Corporation neither admits nor denies the alleged violations and agrees to pay a civil penalty of thirty five thousand dollars (\$35,000.00).

Where the respondent did not admit a violation in the settlement agreement the Board nonetheless has the authority to approve such agreement. (See, Chemetco, Inc. v. Illinois Pollution Control Board, 140 Ill. App.3d ,283, 488 N.E.2d 639, 643 (5th Dist. 1986); and Archer Daniels Midland v. Pollution Control Board, 140 Ill.App.3d 823, 489 N.E.2d 887 (3rd Dist. 1986).)

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 Dietzgen Corporation, concerning its facility located at 250 Wille Road, in the City of Des Plaines, Cook County, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2) The Dietzgen Corporation, shall pay the sum of thirty five thousand dollars (\$35,000.00) 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, the Dietzgen Corporation'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.

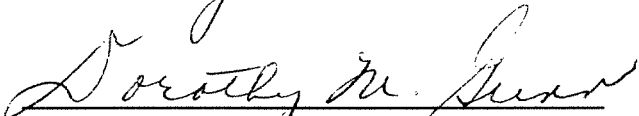
- 3) Dietzgen Corporation shall cease and desist from the alleged violations.

IT IS SO ORDERED.

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 5th day of May, 1994, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board