

ILLINOIS POLLUTION CONTROL BOARD
December 6, 1991

PEOPLE OF THE STATE)	
OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 90-60
)	(Enforcement)
ALLIED-HASTINGS BARREL)	
and DRUM SERVICE, INC.,)	
)	
Respondent.)	

REBECCA A. BURLINGHAM APPEARED ON BEHALF OF THE COMPLAINANT.

RICHARD W. COSBY APPEARED ON BEHALF OF THE RESPONDENT.

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

This matter comes before the Board upon a complaint filed April 17, 1991 on behalf of the People of the State of Illinois, by and through its attorney, Roland W. Burriss, Attorney General of the State of Illinois, against Allied-Hastings Barrel and Drum Service, Inc., located in Chicago, Cook County, Illinois. The complaint alleges that Allied-Hastings Barrel and Drum Service, Inc. has violated Sections 9(a) and 9(b) of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1989, ch. 111 $\frac{1}{2}$, pars. 1001, et. seq., and 35 Ill. Adm. Code 201.143 and 215.204(j) of the Board's rules and regulations.

Hearing on this matter was held June 18, 1991 in Chicago, Illinois. On November 14, 1991 the parties submitted a Stipulation and Settlement Agreement, executed by the parties. Allied-Hastings Barrel and Drum denies the alleged violations. Allied-Hastings Barrel and Drum agrees to pay a civil penalty of Three Thousand Dollars (\$3,000.00).

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, 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 Allied-Hastings Barrel & Drum Service, Inc., concerning its operations located in Chicago, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2.) Allied-Hastings Barrel & Drum Service, Inc. shall pay the sum of Three Thousand dollars (\$3,000.00) 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

Allied-Hastings Barrel & Drum Service, Inc. 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, (Ill. Rev. Stat. 1989, ch. 120, par. 10-1003), as now or hereafter amended, from the date of 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.

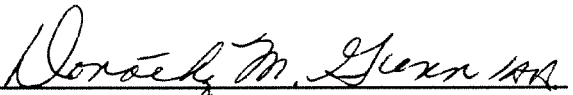
3. Allied-Hastings Barrel & Drum Service, Inc. shall cease and desist from the alleged violations.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1987, ch. 111 $\frac{1}{2}$, par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

Board Member J. Theodore Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 6th day of December, 1991, by a vote of 6-1.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board