

ILLINOIS POLLUTION CONTROL BOARD
November 7, 1991

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 90-140
) (Enforcement)
G & K INVESTMENTS, INC., &)
GARY CROSS and KEVIN LEESMAN.)
)
Respondents.)

JOHN J. KIM, ASSISTANT ATTORNEY GENERAL APPEARED ON BEHALF OF THE COMPLAINANT.

THOMAS E. DAVIES, ELIFF, KEYSER, OBERLE & DAVIES, APPEARED ON BEHALF OF THE RESPONDENT.

OPINION AND ORDER OF THE BOARD (by B. Forcade):

This matter comes before the Board upon a complaint filed July 27, 1990 on behalf of the People of the State of Illinois ("People"), by and through the Attorney General of the State of Illinois, against G & K Investments, Inc., Gary Cross and Kevin Lessman, individually and as officers thereof. The complaint alleges that Respondent has violated subsection 112 (c)(1)(B) of the Clean Air Act (42 U.S.C. 7412 (c)(1)(B)), 40 C.F.R. 61.146(a,b,c), 40 C.F.R. 61.147 (e)(1), and 40 C.F.R. 61.152(a) (1989) and subsection 9.1(d) of the Illinois Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2 par. 1009.1(d)). Section 9.1 of the Illinois Environmental Protection Act provides in part that Section 112 of the federal Clean Air Act relating to the establishment of national emissions for hazardous air pollutants are applicable in this State and are enforceable under this Act.

Hearings on this matter were held December 6, 1990 and June 27, 1991 at Logan County Courthouse in Lincoln, Illinois. At the first hearing the parties were granted a continuance to finalize a settlement agreement. At the second hearing, the parties submitted a Stipulation and Settlement Agreement, executed by the parties. The Stipulation sets forth facts pertaining to the nature, operations and circumstances surrounding the claimed violations. The Respondents do not contest the violations alleged in the complaint and agree to pay a penalty of nine thousand dollars (\$9,000). Respondents further agree to take remedial action as described in "the Soil Conservation Letter" (Attachment to Settlement Agreement) and as specified in the Settlement Agreement. Respondents also agree to cease and desist from the alleged violations.

The Board finds the Settlement Agreement acceptable under 35 Ill. Adm. Code 103.180. This Settlement Agreement in no way affects Respondents' 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 the law in this matter.

ORDER

- 1.) The Board hereby accepts the Stipulation and Settlement Agreement including Soil Conservation Letter Attachment executed by the People of the State of Illinois and G & K Investments, Inc., Gary Cross and Kevin Leesman concerning violations of subsection 112 (c)(1)(B) of the Clean Air Act (42 U.S.C. 7412 (c)(1)(B)), 40 C.F.R. 61.146 (a,b,c), 40 C.F.R. 61.147 (e)(1), and 40 C.F.R. 61.152(a) (1989) and subsection 9.1(d) of the Illinois Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1009.1(d)). The Stipulation and Settlement Agreement with Attachment are incorporated by reference as though fully set forth herein.

- 2.) Respondents shall pay the sum of nine thousand dollars (\$9,000) within 90 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

Respondents shall also write their 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 the 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 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.) Respondents shall cease and desist from the alleged violations.

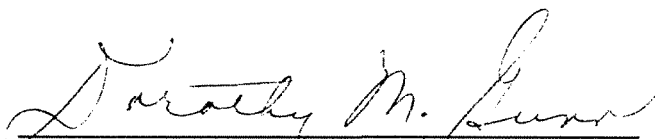
Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

Board Member J. D. Dumelle dissented.

Board Member J. Theodore Meyer concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and Order was adopted on the 7th day of November, 1991, by a vote of 6-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board