

ILLINOIS POLLUTION CONTROL BOARD
December 20, 1990

PEOPLE OF THE STATE)
OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 90-139
) (Enforcement)
ILLINOIS VALLEY PAVING COMPANY,)
an Illinois Corporation,)
)
Respondent.)

MICHAEL FRANKLIN APPEARED ON BEHALF OF COMPLAINANT.

BARBARA FRITSCHER APPEARED ON BEHALF OF RESPONDENT.

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

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 its attorney, Neil F. Hartigan, Attorney General of the State of Illinois, against Illinois Valley Paving Company ("Illinois Valley"), located in Scott and Clinton counties. The complaint alleges that Illinois Valley has violated Sections 9(a) and (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 Part No. 201.141, 201.143 and 201.127 of the Board's rules and regulations.

Hearing on this matter was held October 5, 1990 in Winchester, Scott County. At hearing, the parties submitted a Stipulation and Settlement Agreement, executed by the parties. Illinois Valley denies the alleged violations. Illinois Valley agrees to pay fifteen thousand dollars (\$15,000) into the Environmental Protection Trust Fund.

The Board has authority to impose a penalty where the parties have stipulated to a penalty, but not to a finding of violation. See, Chemtco, 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 Illinois Valley Paving Company, concerning Illinois Valley Paving Company's operations located in Scott and Clinton counties. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2.) Illinois Valley Paving Company shall pay the sum of fifteen thousand dollars (\$15,000) 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

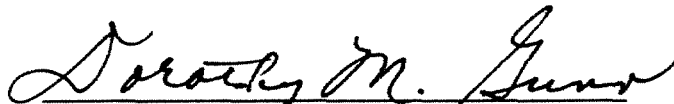
Illinois Valley Paving Company shall also write its Federal Employer Identification Number or Social Security Number on the certified check or money order.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1989, 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.

J. Dumelle and 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 20~~th~~ day of December, 1990, by a vote of 5-2.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board