

ILLINOIS POLLUTION CONTROL BOARD  
August 8, 1991

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 90-61  
 ) (Enforcement)  
 )  
 DURACO, INC., )  
 a Delaware corporation, )  
 )  
 Respondent. )

JOSEPH WILLIAMS AND JOSEPH ANNUNZIO APPEARED ON BEHALF OF THE COMPLAINANT.

HARVEY SHELDON AND TAMERA STEWART 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, 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 Duraco, Inc. ("Duraco"), located in Chicago, Illinois. The complaint alleges that Duraco has violated Sections 9(a) and (b) of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1989, ch. 111½, pars. 1001, et. seq., and 35 Ill. Adm. Code 201.143 and 215.204 of the Board's rules and regulations.

Hearing on this matter was held November 29, 1990 in Chicago Illinois. At hearing, the parties submitted a Stipulation and Settlement Agreement, executed by the parties. Duraco neither admits nor denies the alleged violations. Duraco agrees to pay a civil penalty of four thousand dollars (\$4,000).

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 Duraco, Inc., concerning Duraco, Inc.'s operations located in Chicago, Illinois. The Stipulation and Settlement Agreement are incorporated by reference as though fully set forth herein.
- 2.) Duraco, Inc. shall pay the sum of four thousand dollars (\$4,000) 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

Duraco, Inc. shall also write its Federal Employer Identification Number or Social Security Number on the certified check or money order.

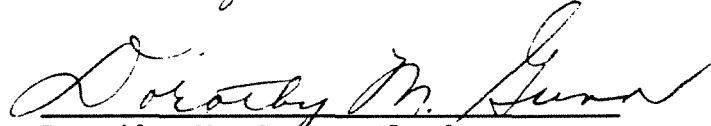
Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (Ill. REV. Stat. 1989, ch. 120, par. 10-1003), as now or hereafter amended, from the date of payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1989, ch. 111½, 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. Theodore Meyer dissented. J.D. Dumelle concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 8<sup>th</sup> day of August, 1991, by a vote of 6-1.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board