

ILLINOIS POLLUTION CONTROL BOARD  
January 18, 2001

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 01-97  
) (Enforcement – Water)  
FERRARA PAN CANDY COMPANY, )  
INC., an Illinois corporation, )  
)  
Respondent. )

OPINION AND ORDER OF THE BOARD (by C.A. Manning):

On December 20, 2000, the People of the State of Illinois (People) filed a six-count complaint against respondent Ferrara Pan Candy Company, Inc. (Ferrara), a candy manufacturer. The complaint alleges Ferrara caused water pollution, created a water pollution hazard and offensive conditions, discharged a contaminant without a permit, and failed to implement reliable systems at its facility located at 3000 West Washington Boulevard, Bellwood, Cook County, Illinois. These actions are in alleged violation of Sections 12(a), (d), and (f) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), (d), (f) (1998)) and the Board's water pollution regulations at 35 Ill. Adm. Code 302.203, 304.102, 304.105, 304.106, and 309.102(a).

On December 20, 2000, the parties also filed a stipulation and proposal for settlement, accompanied by a motion requesting relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (1998)). Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (1998)), the Board caused publication of the required newspaper notice of the stipulation and proposal for settlement and request for relief from the hearing requirement. The notice appeared in The *Sun-Times* on December 22, 2000. The Board did not receive any requests for hearing. Accordingly, the Board grants a waiver from the hearing requirement.

The stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. In the proposed stipulation Ferrara neither admits nor denies the allegations contained in counts I, II, IV, and V of the complaint. Ferrara admits the violations alleged in counts III and VI of the complaint, discharging a contaminant without a permit and causing offensive conditions. Ferrara agrees to pay a civil penalty of \$15,000.

The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. Ferrara must continue to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's 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 Ferrara. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. Ferrara must pay a civil penalty of \$15,000. Payment must be made within 30 days of the date of this order, that is, on or before February 17, 2001. Such payment must be made by certified check or money order payable to the Illinois Environmental Protection Agency. The case number, case name, and Ferrara's Federal Employer Identification number 363331581 must also be included on the certified check or money order and clearly indicate that payment is directed to the Environmental Protection Trust Fund.
3. The check or money order must be sent by first class mail to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

A copy of the payment transmittal and check shall be simultaneously submitted to:

Office of the Attorney General  
Kelly Cartwright, Environmental Bureau  
188 West Randolph Street, 20th floor  
Chicago, Illinois 60601

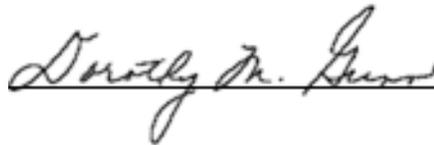
4. Any such penalty not paid within the time prescribed incurs interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003 (1998)), as now or hereafter amended, from the date payment is due until the date payment is received. Interest does not accrue during the pendency of an appeal during which payment of the penalty has been stayed.
5. Ferrara must cease and desist future alleged violations of any federal, State, or local statutes and regulations.
6. In the event Ferrara fails to comply with the payment terms of this order,

Ferrara must pay a stipulated penalty of \$100 per day for each of the first 30 days of non-payment, \$500 per day for each of the following 30 days of non-payment, and \$1000 per day of non-payment thereafter.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.520, Motions 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 18th day of January 2001 by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board