

ILLINOIS POLLUTION CONTROL BOARD
May 7, 2009

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 09-16
)	(Enforcement)
MII, INC.,)	
)	
Respondent.)	
)	
)	

OPINION AND ORDER OF THE BOARD (by G.L. Blankenship):

On September 12, 2008, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against MII, Inc. (MII) concerning MII's manufacturing facility located at 2200 West 5th Street, Lincolnwood, Logan County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposal for settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2006); 35 Ill. Adm. Code 103. In this case, the People allege that MII violated Sections 21(a), 21(f)(1), 21(f)(2), 21(p)(1), and 24 of the Act (415 ILCS 5/21(a), (f)(1), (f)(2), and (p)(1), and /24 (2006)); 703.121(a) and (b), 722.134(a) and (c), and 725.273(a) of the Board's Hazardous Waste Operating Regulations; and, 900.102, 901.106(a), and 901.102(a) and (b) of the Board's Noise Pollution Regulations. The People allege that these sections were violated by the following: causing or allowing the open dumping of waste in a manner resulting in litter (count I); by storing hazardous wastes in unlabeled and open containers without a Resource Conservation and Recovery Act (RCRA) permit (count II); and, by producing sound pressure levels in violation of the Board's regulations for daytime and nighttime hours, and for prominent discrete tones.¹

On March 13, 2009, the People and MII filed a stipulation and proposal for settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public

¹ In the stipulation and proposal for settlement, the Agency withdrew three alleged violations in counts I and II, including Sections 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2006)) and Section 812.101(a) of the Board's Waste Disposal Regulations 35 Ill. Adm. Code 812.101(a) from count I, and Section 21(e) of the Act (415 ILCS 5/21(e) (2006) from count II.

hearing. *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation and proposal for settlement, and request for relief in *The Courier* newspaper on April 1, 2009. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2006); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposals for settlement. *See* 35 Ill. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of MII's operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2006)), which bears on the reasonableness of the circumstances surrounding the alleged violations. MII admits to the alleged violations.

The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2006)), which may mitigate or aggravate the civil penalty amount. MII agrees to pay a civil penalty of \$15,000.00. MII also agrees to pay investigative costs in the amount of \$10,000.00. The People and MII have satisfied Section 103.302. The Board accepts the stipulation and proposal for settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. MII must pay a civil penalty of \$15,000.00 no later than June 8, 2009, which is first business day following the 30th day after the date of this order. MII must pay \$15,000 by certified check or money order payable to the Illinois Environmental Protection Trust Fund. MII must also pay \$10,000 in investigative costs by certified check or money order payable to the Illinois Attorney General's Office for deposit into the State Projects and Court Ordered Distribution Fund. The case name, case number, and MII's Federal Employer Identification Number must appear on the face of each certified check or money order.

3. MII must submit payment of the civil penalty to:

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

MII must send a copy of the certified check or money order and any transmittal letter to:

Environmental Bureau
 Illinois Attorney General's Office
 69 West Washington Street, Suite 1800
 Chicago, Illinois 60602

4. MII must submit payment of investigative costs to:
 Illinois Attorney General's Office
 Josiah E. Small
 Accounting Director
 500 South Second Street
 Springfield, Illinois 62706

MII must send a copy of the certified check or money order and any transmittal letter to:

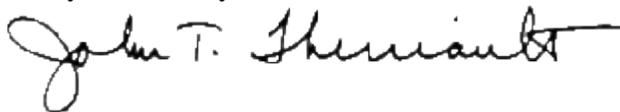
Environmental Bureau
 Illinois Attorney General's Office
 69 West Washington Street, Suite 1800
 Chicago, Illinois 60602

5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).
6. MII must cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2006); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 7, 2009, by a vote of 5-0.



John Therriault, Assistant Clerk
 Illinois Pollution Control Board