## ILLINOIS POLLUTION CONTROL BOARD February 1, 2024

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
**	)	PCB 23-103
V.	)	(Enforcement - Air)
AURORA METALS DIVISION L.L.C., an	)	(Emoreement 7111)
Indiana limited liability company,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by M. Gibson):

On March 23, 2023, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Aurora Metals Division, L.L.C. (Aurora Metals). The complaint concerns Aurora Metals' nonferrous metal foundry and machine shop located at 1995 Greenfield Avenue in Montgomery, Kane County (facility). The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2022)), 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 (2022); 35 III. Adm. Code 103. In this case, the People allege that Aurora Metals violated Section 9(a) of the Act (415 ILCS 5/9(a) (2022)) and Section 201.302(a) of the Board Air Pollution Regulations (35 III. Adm. Code 201.302(a)). The People allege Aurora Metals committed these violations by failing to timely submit an Annual Emissions Report (AER) for its facility for the year 2020 to the Illinois Environmental Protection Agency (IEPA) by May 1, 2021 (Count I) and by failing to submit an AER for its facility for the year 2021 to the IEPA by May 1, 2022 (Count II).

On December 8, 2023, the People filed a motion to voluntarily dismiss Count II of the complaint without prejudice because the People received documentation from Aurora Metals showing that it timely submitted its 2021 AER. On January 4, 2024, the Board granted the motion to voluntarily dismiss Count II of the complaint without prejudice.

Also on December 8, 2023, the People and Aurora Metals filed a stipulation and proposed 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) (2022)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2022)), 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 hearing. See 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the Fox Valley Daily Herald on January 8, 2024. 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) (2022); 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. *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 Aurora Metal'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) (2022)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Aurora Metals does not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2022)), which may mitigate or aggravate the civil penalty amount. Under the proposed settlement, Aurora Metals agrees to pay a civil penalty of \$7,500 within 30 days after the date of this order. The People and Aurora Metals have satisfied Section 103.302. The Board accepts the stipulation and proposed 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. Aurora Metals must pay a civil penalty of \$7,500 no later than Monday, March 4, 2024, which is the first business day following the 30th day after the date of this order. Aurora Metals must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name and case number must appear on the certified check or money order.
- 3. Aurora Metals 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

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

Cara V. Sawyer Assistant Attorney General Environmental Bureau North Illinois Attorney General's Office 69 W. Washington St., Suite 1800 Chicago, Illinois 60602

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2022)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2022)).
- 5. Aurora Metals must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

## 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) (2022); 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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of Any Petition for Review Filed with the Appellate Court			
Parties	Board		
Illinois Attorney General's Office Attn.: Cara V. Sawyer, Asst. Atty. General Environmental Bureau North 69 W. Washington St., Suite 1800 Chicago, Illinois 60602 cara.sawyer@ilag.gov Smith Gambrell & Russell LLP Attn.: Ann M. Zwick 311 S. Wacker Drive, Suite 3000 Chicago, IL 60606 azwick@sgrlaw.com	Illinois Pollution Control Board Attn: Don A. Brown, Clerk 60 East Van Buren Street, Suite 630 Chicago, Illinois 60605 don.brown@illinois.gov		

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 1, 2024, by a vote of 4-0.

Don A. Brown, Clerk

Illinois Pollution Control Board

Don a. Brown