ILLINOIS POLLUTION CONTROL BOARD February 21, 2002

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PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
V.)	PCB 00-202
)	(Enforcement
AMERICAN DRIVEWAY MAINTENANC	CE,)	
INC. an Illinois corporation,)	
)	
Respondent.)	
)	

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

On May 26, 2000, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against American Driveway Maintenance, Inc. (ADMI). *See* 415 ILCS 5/31(c)(1) (2000); 35 Ill. Adm. Code 103.204. The People allege that ADMI violated Sections 12(a) and 12(d) of the Environmental Protection Act (Act) (415 ILCS 5/12(a) and 5/12(d) (2000)) and Section 304.106 of the Board's regulations (35 Ill. Adm. Code 304.106). The People further allege that ADMI violated these provisions by discharging rinse water containing Dynaflex into the Rock River. The complaint concerns ADMI's driveway and tennis court coating facility at 1202 Buchanan Street, Rockford, Winnebago County.

On January 14, 2002, the People and ADMI 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) (2000)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000)). See 35 III. 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 *Rockford Register-Star* on January 17, 2002. 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) (2000); 35 III. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 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 ADMI'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) (2000)). The People and ADMI have satisfied Section 103.302. ADMI admits the alleged violations of Section 12(a) of the Act and Section 304.106 of the Board's regulations. ADMI agrees to pay a civil penalty of \$4,000. 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. ADMI must pay a civil penalty of \$4,000 according to the following schedule: \$1,000 no later than March 23, 2002, which is the 30th day after the date of this order; \$1,000 no later than April 22, 2002, which is the 60th day after the date of this order; \$1,000 no later than May 22, 2002, which is the 90th day after the date of this order; and \$1,000 no later than June 21, 2002, which is the 120th day after the date of this order. ADMI must pay the civil penalty by certified checks or money orders, payable to the Environmental Protection Trust Fund. The case number, case name, and ADMI's federal employer identification number must be included on the certified checks or money orders.
- 3. ADMI must send the certified checks or money orders to:

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

- 4. ADMI must send copies of the certified checks or money orders by first class mail to:
 - Christopher Grant Assistant Attorney General Environmental Bureau 188 West Randolph, 20th Floor Chicago, Illinois 60601
- 5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).
- 6. ADMI 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) (2000); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 21, 2002, by a vote of 7-0.

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Dorothy M. Gunn, Clerk Illinois Pollution Control Board