

ILLINOIS POLLUTION CONTROL BOARD  
July 13, 2000

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 98-95  
) (Enforcement - Air)  
MEYER STEEL DRUM, INC., an Illinois )  
corporation, )  
)  
Respondent. )

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

On June 2, 2000, the parties filed a stipulation and proposal for settlement. The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. In pertinent part, the complaint filed by the People of the State of Illinois (People) on December 31, 1997 alleged that respondent violated Sections 9(a) and 9(b) of the Environmental Protection Act (Act) (415 ILCS 5/9(a), 9(b), (1998)), and the Board's Clean Air Act Permit Program (CAAPP) regulations found at 35 Ill. Adm. Code 201.141, 201.142, and 201.143, and Operating Permit No. 90060034. These violations include failing to obtain a construction permit, operating a new emission source without a permit, causing or allowing air pollution, and violating the conditions of Operating Permit No. 90060034. The People are no longer pursuing the remaining allegations in the complaint concerning rules for a source's Major Modification and New Source Review.

While this case was pending, the People report that the Illinois Environmental Protection Agency (Agency) informed the respondent that it had failed to submit an Emission Reduction Marketing System (ERMS) application for its two facilities and therefore violated 35 Ill. Adm. Code 201.310. The Agency also informed respondent that it had failed to timely submit annual emission reports (AER) for 1997 and therefore violated 35 Ill. Adm. Code 201.302 and 254.202. Respondent has subsequently submitted the required ERMS application and the AERs to the Agency.

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 *Chicago Sun-Times* on June 8, 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 remaining CAAPP violations alleged in the complaint. As for the additional violations concerning the ERMS application and the AERs for

1997, the Board construes the complaint to be amended pursuant to the stipulation presented by the parties. See 35 Ill. Adm. Code 103.210(a), allowing for amendments of pleadings to conform to proof where no undue surprise results. Respondent neither admits nor denies the violations alleged in most of the complaint, but does admit that it failed to submit the ERMS application and the AERs for 1997. Respondent agrees to pay a civil penalty of \$8,000, and the People agree to release respondent from any further liabilities or penalties for the violation of the Act and the Board regulations set forth in the original complaint as amended in the stipulation to include untimely submission of the ERMS application and the AERs for 1997. Respondent 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 Meyer Steel Drum, an Illinois corporation, regarding its facilities located at 3201 South Millard and 2000 South Kilbourn, Chicago, Cook County, Illinois. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. Respondent shall pay the sum of \$8,000 within 30 days of the date of this order. Such payment shall be made by certified check or money order payable to the Illinois Environmental Protection Agency, designated to the Environmental Protection Trust Fund. The case number, case name, and the respondent's federal employer identification number 36-2885374 shall also be included on the certified check or money order and should clearly indicate that payment is directed to the Environmental Protection Trust Fund.
3. The certified check or money order shall 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:

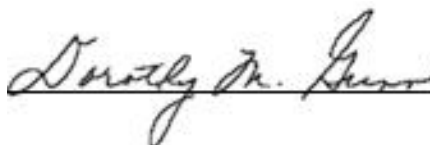
Kelly Cartwright  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph Street, 20th Floor  
Chicago, Illinois 60601

4. 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, (35 ILCS 5/1003 (1998)), as now or hereafter amended, from the date 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.
5. Respondent shall cease and desist future alleged violations of any federal, State, or local statutes and regulations.

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 101.246, 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 13th day of July 2000 by a vote of 7-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board