

ILLINOIS POLLUTION CONTROL BOARD
June 20, 2002

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 00-227
) (Enforcement - Air)
GOELITZ CONFECTIONERY COMPANY,)
and GOELITZ CONFECTIONERY)
EXPORT COMPANY, INC., Illinois)
corporation,)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On June 28, 2000, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Goelitz Confectionery Company and Goelitz Confectionery Export Company (respondents). *See* 415 ILCS 5/31(c)(1) (2000); 35 Ill. Adm. Code 103.204. The People allege in the complaint that respondents violated Sections 9(a) and (b), and 39.5(6)(b) of the Environmental Protection Act (Act) (415 ILCS 5/9(a), (b) and 39.5(6)(b) (2000)), as well as 35 Ill. Adm. Code 201.141, 201.142, 201.143, 201.144, 201.302(a), 205.310, 218.986, 254.201, 254.202, 270.201, and 270.301(a).¹

The People further allege that the respondents violated these provisions by discharging or emitting volatile organic material (VOM) from the facility into the environment from the uncontrolled operation of 54 engrossers and 39 polishing units during the cooking, flavoring, coloring and polishing of the confection products they produce and distribute. The complaint concerns respondents' confectionery facility at 1501 Morrow Avenue, North Chicago, Lake County.

On May 16, 2002, the People and the respondents 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)

¹ The Board notes that Section IV(C) (Statement of Facts, Violations) of the stipulation and proposal for settlement does not include every violation alleged in the complaint. However, in Section IX (Terms of Settlement) of the stipulation and proposal for settlement the respondents admit that the violations occurred as alleged in the complaint. In addition, no language in the stipulation and proposal for settlement expresses an intent to deviate from the violations as alleged in the complaint. Accordingly, it is clear the parties' intent was that the respondents admit to all the violations in the complaint.

of the Act (415 ILCS 5/31(c)(2) (2000)). *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief, including published notice in the *News-Sun* on May 20, 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 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. 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 respondent'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 the respondents have satisfied Section 103.302. The respondents admit that violations occurred as alleged in the complaint and agree to pay a civil penalty of \$175,000. 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. The respondents, Goelitz Confectionery Company, and Goelitz Confectionery Export Company, Inc, Illinois corporations, must pay a civil penalty of \$175,000 no later than July 22, 2002, the 30th day after the date of this order falling on a weekend. The respondents must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency and designated to the Environmental Protection Trust Fund. The case number, case name, and respondents' social security number or federal employer identification number must be included on the certified check or money order.
3. The respondents must send the certified check or money order to:

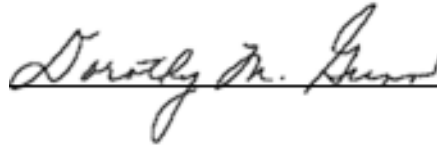
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)).

5. The respondents 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 June 20, 2002, by a vote of 7-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board