

ILLINOIS POLLUTION CONTROL BOARD  
November 7, 2002

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 02-185
	)	(Enforcement - Air)
FERRARA PAN CANDY COMPANY,	)	
	)	
Respondent.	)	

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

On April 23, 2002, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Ferrara Pan Candy Company (Ferrara). *See* 415 ILCS 5/31.1(c) (2000) *as amended* by P.A. 92-0574, eff. June 26, 2002; 35 Ill. Adm. Code 108.202(c). The People allege that Ferrara violated various provisions of the Environmental Protection Act, the Board’s air pollution regulations, and its Federally Enforceable State Operating Permit. The People further allege that Ferrara violated these provisions by emitting volatile organic material through the uncontrolled operation of its equipment. The complaint concerns Ferrara’s candy manufacturing facility located at 7301 West Harrison Street, Forest Park, Cook County.

On September 12, 2002, the People and Ferrara 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) *as amended* by P.A. 92-0574, eff. June 26, 2002). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000) *as amended* by P.A. 92-0574, eff. June 26, 2002). *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 *Chicago Sun-Times* on October 4, 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) *as amended* by P.A. 92-0574, eff. June 26, 2002; 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 Ferrara’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 Ferrara have satisfied Section 103.302. Ferrara neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$371,688. 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. Ferrara must pay a civil penalty of \$371,688.00 no later than December 9, which is the 30th day after the date of this order. Ferrara must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Ferrara's social security number or federal employer identification number must be included on the certified check or money order.
3. Ferrara must send the certified check or money order to:

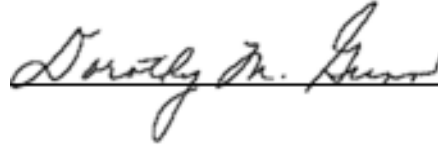
Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000))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

IT IS SO ORDERED.

Board Member W.A. Marovitz concurred.

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 November 7, 2002, by a vote of 6-0.

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