

ILLINOIS POLLUTION CONTROL BOARD

March 6, 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 03-100
)	(Enforcement - Air)
NATIONAL CONTAINER SERVICES, an)	
Illinois corporation,)	
)	
Respondent.)	

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

On January 13, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against National Container Services (National Container). See 415 ILCS 5/31.1(c) (2002); 35 Ill. Adm. Code 108.202(c). The People allege that National Container violated Section 9(b), 39.5(6)(b), and 39.5(5)(x) of the Environmental Protection Act (Act) (415 ILCS 9(b), 39.5(6)(b), and 39.5(5)(x) (2002)). The People further allege that National Container violated these provisions by exceeding the combined and single hazardous air pollutants annual emission limits of its operating permit. In addition, the People allege that National Container failed to timely submit a Clean Air Act Permit Program permit application. The complaint concerns National Container's plastic drum and container reconditioning facility 3620 West 38th Street in Chicago, Cook County.

On January 13, 2003, the People and National Container concurrently 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) (2002)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (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 January 24, 2003. 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) (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 National Container'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) (2002)). The People and National Container have satisfied Section 103.302. National Container does not admit the alleged violations but agrees to pay a civil penalty of \$40,000. The Board accepts the stipulation and proposed settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

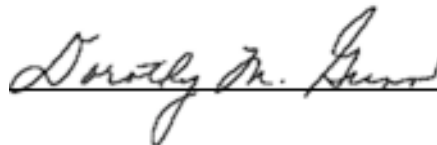
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. National Container must pay a civil penalty of \$40,000 no later than March 22, 2003, which is the 30th day after the date of this order. National Container must pay the civil penalty by certified check or money order, payable to Environmental Protection Trusts Fund. The case number, case name, and National Container's social security number or federal employer identification number must be included on the certified check or money order.
3. National Container 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) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. National Container 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) (2002); *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 March 6, 2003, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board