ILLINOIS POLLUTION CONTROL BOARD December 18, 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 02-213
)	(Enforcement - Air)
ACTION ATHLETIC, INC., an Illinois)	
corporation,)	
)	
Respondent.)	

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

Today's order addresses an addendum to the stipulation and proposal for settlement (addendum) filed by the parties on December 16, 2003. The addendum moves the Board to amend the December 4, 2003 final opinion and order in this matter to better reflect the parties' stipulation and proposal for settlement (stipulation), filed October 3, 2003. The parties' stipulation provides that Action Athletic, Inc. (Action Athletic) must pay a total civil penalty of \$28,000, payable to two different funds: \$25,198.21 to the Environmental Protection Trust Fund and \$2,801.79 payable to the Bureau of Air Permit Fund. The Board's December 4, 2003 opinion and order designates the entire amount to the Environmental Protection Trust Fund.

Section 101.520 of the Board's procedural rules provides that a motion for modification of a final Board order must be filed within 35 days after receipt of the order. 35 Ill. Adm. Code 101.520. The Board finds the parties' addendum and motion is timely filed. Accordingly, the Board amends the final opinion and order to reflect payment of the civil penalty as the parties request. Today's order also provides that Action Athletic must pay the civil penalty and permit fees within 30 days of the date of this amended order.

The order, as amended, is set forth in its entirety below. This amended opinion sets forth 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. Action Athletic, Inc. (Action Athletic) must pay a civil penalty of \$28,000 no later than January 17, 2004, which is the 30th day after the date of this amended order. Action Athletic must pay \$25,198.21 of 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 Action Athletic's federal employer identification number (36-2739226) must be included on the certified check or money order.

3. Action Athletic 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

Action Athletic must send a copy of the check or money order to:

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

- 4. Action Athletic must pay \$2,801.79 of the civil penalty by certified check or money order, payable to the "Illinois Environmental Protection Agency" and designated to the Bureau of Air Permit Fund. The case number, case name, and Action Athletic's federal employer identification number (36-2739226) must be included on the certified check or money order. A copy of the check shall be sent to Joel Sternstein at the address in paragraph three of this order.
- 5. 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. Action Athletic 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 December 18, 2003, by a vote of 5-0.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board