

JAN 30 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
 by LISA MADIGAN, Attorney General)
 of the State of Illinois,)
)
 Complainant,)
)
 v.)
)
 GF OFFICE FURNITURE, LTD. L.P.,)
 a Limited Partnership,)
 OFFICE SUITES, INC., an Illinois)
 Corporation and Subsidiary of)
 GF Office Furniture, Ltd. L.P., and)
 GF FURNITURE HOLDING, INC.,)
 a Foreign Corporation and General)
 Partner of GF Office Furniture,)
 Ltd. L.P.,)
)
 Respondents.)

PCB No. 04-135
(Enforcement - Air)

NOTICE OF FILING

TO: Pamela Foster, Esq. (for all Respondents)
Legal Department
National Material
1965 Pratt Boulevard
Elk Grove Village, IL 60007

PLEASE TAKE NOTICE that I have today filed the Complaint with the Office of the Clerk of the Illinois Pollution Control Board, a true and correct copy of which is attached hereto and herewith served upon you. Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to advise you that failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General
of the State of Illinois

BY: *Michael C. ParTEE*
MICHAEL C. PARTEE
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601
(312)814-2069
Attorney No. 99000

RECEIVED
CLERK'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

JAN 30 2004

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
by LISA MADIGAN, Attorney General)
of the State of Illinois,)
)
Complainant,)
)
v.)
)
GF OFFICE FURNITURE, LTD. L.P.,)
a Limited Partnership,)
OFFICE SUITES, INC., an Illinois)
Corporation and Subsidiary of)
GF Office Furniture, Ltd. L.P., and)
GF FURNITURE HOLDING, INC.,)
a Foreign Corporation and General)
Partner of GF Office Furniture,)
Ltd. L.P.,)
)
Respondents.)

PCB No. 04-135
(Enforcement - Air)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondents, GF OFFICE FURNITURE, LTD. L.P., a limited partnership, OFFICE SUITES, INC., an Illinois corporation and subsidiary of GF Office Furniture, Ltd. L.P., and GF FURNITURE HOLDING, INC., a foreign corporation and general partner of GF Office Furniture, Ltd. L.P., as follows:

COUNT I

CAUSING OR ALLOWING AIR POLLUTION

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2002).

2. At all times relevant to this Complaint, Respondent GF OFFICE FURNITURE, LTD. L.P., was and is a limited partnership organized in Delaware.

3. At all times relevant to this Complaint, Respondent OFFICE SUITES, INC., was and is an Illinois corporation and a subsidiary of Respondent GF Office Furniture, Ltd. L.P. At all times relevant to this Complaint, Office Suites, Inc., was and is the operator of a wooden office furniture manufacturing facility located at 1034 South Kostner Avenue, Chicago, Cook County, Illinois ("facility").

4. At all times relevant to this Complaint, Respondent GF FURNITURE HOLDING, INC., was and is a Nevada corporation and a general partner of GF Office Furniture, Ltd. L.P. At all times relevant to this Complaint, GF Furniture Holding, Inc., was and is the owner of the facility.

5. Since at least 1994 or a date better known to Respondents, the facility contained seven wood furniture coating spray booths and conveyORIZED infrared drying ovens, an adhesive spray booth, various woodworking equipment, and four natural gas-fired boilers.

6. As a result of the woodworking and coating operations at the facility, volatile organic material ("VOM") and particulate matter ("PM") were and are emitted to the environment.

7. On December 20, 2000, pursuant to the Clean Air Act Permit Program ("CAAPP") under Section 39.5 of the Act, 415 ILCS 5/39.5 (2002), the Illinois EPA issued permit no. 96020120 to

Office Suites, Inc., for the facility. CAAPP permit no. 96020120 has an expiration date of December 20, 2005.

8. Respondents' facility is subject to the Act, the Illinois Pollution Control Board's ("Board") Air Pollution Regulations promulgated under the Act at Title 35, Subtitle B, Chapter I of the Illinois Administrative Code, and the terms and conditions of CAAPP permit no. 96020120.

9. Section 3.315 of the Act, 415 ILCS 5/3.315 (2002), provides as follows:

"PERSON" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agency or assigns.

10. Respondents are "persons" as that term is defined in Section 3.315 of the Act.

11. Section 3.165 of the Act, 415 ILCS 5/3.165 (2002), provides as follows:

"CONTAMINANT" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

12. Section 3.115 of the Act, 415 ILCS 5/3.115 (2002), provides as follows:

"AIR POLLUTION" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

13. The VOM and PM emitted from Respondents' facility are "contaminants" as that term is defined in Section 3.165 of the Act.

14. These contaminants have existed in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property to constitute "air pollution" as that term is defined in Section 3.115 of the Act.

15. Section 8 of the Act, 415 ILCS 5/8 (2002), provides as follows:

The General Assembly finds that pollution of the air of this State constitutes a menace to public health and welfare, creates public nuisances, adds to cleaning costs, accelerates the deterioration of materials, adversely affects agriculture, business, industry, recreation, climate, and visibility, depresses property values, and offends the senses.

It is the purpose of this Title to restore, maintain, and enhance the purity of the air of this State in order to protect health, welfare, property and the quality of life and to assure that no air contaminants are discharged into the atmosphere without being given the degree of treatment or control necessary to prevent pollution.

16. Section 9(a) of the Act, 415 ILCS 5/9(a) (2002), provides as follows:

Acts prohibited. No person shall:

- (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any state so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act;

17. Section 201.141 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 201.141, provides, in relevant part, as follows:

Prohibition of Air Pollution.

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter

18. By causing, threatening or allowing the discharge or emission of contaminants into the environment from their facility from at least 1994 until the present so as to unreasonably interfere with the enjoyment of life and/or property of nearby residents, Respondents caused or tended to cause air pollution in Illinois.

19. By causing or tending to cause air pollution in Illinois, Respondents violated Section 9(a) of the Act and Section 201.141 of Board's Air Pollution Regulations.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board enter an order in favor of Complainant and against Respondents on this Count I:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;
2. Finding that Respondents violated the Act and regulations as alleged herein;
3. Ordering Respondents to cease and desist from any further violations of the Act and regulations;
4. Assessing against Respondents a civil penalty of Fifty Thousand dollars (\$50,000.00) for each violation of the Act and an additional Ten Thousand Dollars (\$10,000.00) for each day during

which the violation continued;

5. Assessing against Respondents the Complainant's costs and reasonable attorney's fees; and

6. Granting such other relief as the Board deems appropriate.

COUNT II

FAILURE TO PARTICIPATE IN ERMS

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA") pursuant to Section 31 of the Act.

2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2002), and charged, *inter alia*, with the duty of enforcing the Act.

3-11. Complainant realleges and incorporates by reference paragraphs 2 through 10 of Count I as paragraphs 3 through 11 of this Count II.

12. The Emissions Reduction Market System ("ERMS") under 35 Ill. Adm. Code Part 205 is described in Section 6.1 of CAAPP permit no. 96020120, in relevant part, as follows:

6.0 Emissions Reduction Market System (ERMS).

6.1 Description of ERMS.

The ERMS is a "cap and trade" market system for major stationary sources located in the Chicago ozone nonattainment area. It is designed to reduce VOM emissions from

stationary sources to contribute to reasonable further progress toward attainment, as required by [the Clean Air Act].

The ERMS addresses VOM emissions during a seasonal allotment period from May 1 through September 30. Participating sources must hold "allotment trading units" (ATUs) for their actual seasonal VOM emissions. Each year participating sources are issued ATUs based on allotments set in the sources' CAAPP permits. These allotments are established from historical VOM emissions or "baseline emissions" lowered to provide the emissions reductions from stationary sources required for reasonable further progress.

By December 31 of each year, the end of the reconciliation period following the seasonal allotment period, each source should have sufficient ATUs in its transaction account to cover its actual VOM emissions during the preceding season

13. The applicability of ERMS to Respondents' facility is covered by Section 6.2 of CAAPP permit no. 96020120, which provides as follows:

Applicability.

This permit is issued based on this source not being a participating source in the Emissions Reduction Market System (ERMS), 35 IAC Part 205, pursuant to 35 IAC Section 205.200. This is based on the source's actual VOM emissions during the seasonal allotment period from May 1 through September 30 of each year being less than 10 tons and the source's baseline emissions also being less than 10 tons.

14. On about November 27, 2001, Office Suites, Inc., reported to the Illinois EPA that the facility's VOM emissions for the ERMS seasonal allotment period from May 1, 2001, through September 30 2001, were approximately 12.99 tons.

15. On about February 20, 2002, Office Suites, Inc., reported to the Illinois EPA that the facility's VOM emissions for

the ERMS seasonal allotment period from May 1, 2000, through September 30, 2000, were approximately 11.08 tons.

16. The Illinois EPA then determined that the facility's VOM emissions for the ERMS seasonal allotment period from May 1, 1999, through September 30, 1999, were at least 10 tons.

17. Respondents did not participate in ERMS in 2000 and 2001 by holding sufficient ATUs to cover their actual VOM emissions by December 31 of each of these years.

18. Section 9.2.1 of CAAPP permit no. 96020120 provides as follows:

9.2 General Obligations of Permittee.

9.2.1 Duty to Comply.

The Permittee must comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of the [Clean Air Act] and the Act, and is grounds for any or all of the following: enforcement action, permit termination, revocation and reissuance, modification, or denial of a permit renewal application [Section 39.5(7)(o)(i) of the Act].

The Permittee shall meet applicable requirements that become effective during the permit term in a timely manner unless an alternate schedule for compliance with the applicable requirement is established.

19. Section 39.5 of the Act, 415 ILCS 5/39.5 (2002), provides, in relevant part, as follows:

Clean Air Act Permit Program.

* * *

(6) Prohibitions.

(a) It shall be unlawful for any person to violate any terms or conditions of a permit issued under this Section, to operate any CAAPP source except in compliance with a permit issued by the Agency under this Section or to violate any other applicable requirements. All terms and conditions of a permit issued under this Section are enforceable by USEPA and citizens under the Clean Air Act, except those, if any, that are specifically designated as not being federally enforceable in the permit pursuant to paragraph 7(m) of this Section.

* * *

(7) Permit Content.

* * *

(o) Each CAAPP permit issued under subsection 10 of this Section shall include provisions stating the following:

- i) Duty to comply. The permittee must comply with all terms and conditions of the CAAPP permit. Any permit noncompliance constitutes a violation of the Clean Air Act and the Act, and is grounds for any or all of the following: enforcement action; permit termination, revocation and reissuance, or modification; or denial of a permit renewal application .

20. Section 205.200 of the Board's Air Pollution

Regulations, 35 Ill. Adm. Code 205.200, provides, in relevant part, as follows:

Participating source.

The requirements of this Part shall apply to any source operating prior to May 1999, located in the Chicago ozone nonattainment area, that is required to obtain a CAAPP permit and has . . . seasonal emissions of at least 10 tons in any seasonal allotment period beginning in 1999. Each participating source shall hold ATUs, as specified in 205.150(c) of this Part, in accordance with the following schedule:

- (a) For any participating source that has baseline emissions of at least 10 tons of VOM, as determined in accordance with Section 205.320(a) of this Part, beginning with the 1999 seasonal allotment period;
- (b) For any source that first becomes a participating source because its VOM emissions increase to 10 tons per season or more in any seasonal allotment period beginning with 1999 and this emissions increase is not a major modification pursuant to 35 Ill. Adm. Code 203, beginning with the first seasonal allotment period after such increased emissions occurred;

21. The VOM emissions from Respondents' facility were at least 10 tons during the 1999 seasonal allotment period and, pursuant to Section 205.200 of the Board's Air Pollution Regulations, Respondents were required to participate in ERMS by purchasing the required ATUs beginning in 2000, which is the first seasonal allotment period after the facility's seasonal VOM emissions increased to at least 10 tons.

22. The VOM emissions from Respondents' facility for the 2000 and 2001 seasonal allotment periods also exceeded 10 tons, but Respondents failed to participate in ERMS by purchasing sufficient ATUs to cover their actual VOM emissions for these seasons.

23. By emitting in excess of 10 tons of VOM during the 1999, 2000 and 2001 seasonal allotment periods, but failing to participate in ERMS during 2000 and 2001, Respondents violated Section 9.2.1 of CAAPP permit no. 96020120.

24. By violating Section 9.2.1 of CAAPP permit no. 96020120, Respondents violated Section 39.5 of the Act and Section 205.200 of the Board's Air Pollution Regulations.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board enter an order in favor of Complainant and against Respondents on this Count II:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;
2. Finding that Respondents violated the Act and regulations as alleged herein;
3. Ordering Respondents to cease and desist from any further violations of the Act and regulations;
4. Assessing against Respondents a civil penalty of Ten Thousand dollars (\$10,000.00) for each day during which the violations continued;
5. Assessing against Respondents the Complainant's costs and reasonable attorney's fees; and
6. Granting such other relief as the Board deems appropriate.

COUNT III

FAILURE TO APPLY FOR ERMS EXEMPTION

1-19. Complainant realleges and incorporates by reference paragraphs 1 through 19 of Count II as paragraphs 1 through 19 of this Count III.

20. Respondents did not obtain an exemption from ERMS during 2000 and 2001 by operating with seasonal VOM emissions of no more than 15 tons pursuant to a limitation applied for and established in their CAAPP permit.

21. Condition 6.3(b) of CAAPP permit no. 96020120, provides as follows:

Recordkeeping and Reporting.

* * *

- (b) In the event that the source's VOM emissions during the seasonal allotment period equal or exceed 10 tons, the source shall become a participating source in the ERMS and beginning with the following seasonal allotment period, shall comply with 35 Ill. Adm. Code, by holding allotment trading units (ATUs) for its VOM emissions during each seasonal allotment period, unless the source obtains exemption from the ERMS by operating with seasonal VOM emissions of no more than 15 tons pursuant to a limitation applied for and established in its CAAPP permit.

22. Section 205.205 of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 205.205 (2002), provides, in relevant part, as follows:

Exempt Source.

* * *

- (a) (2) If the source is required to participate in the ERMS in any seasonal allotment period after 1999 because its VOM emissions increase to 10 tons or more in any seasonal allotment period beginning with 1999 in accordance with Section 205.200(b) of this Subpart, such source shall apply for the applicable permit limitation by December 1 of the first year in which its seasonal emissions are at least 10 tons.

23. Because Respondent did not participate in ERMS in 2000 and 2001, pursuant to Section 205.205 of the Board's Air Pollution Regulations and Condition 6.3(b) of CAAPP permit no. 96020120, Respondents were required to obtain an exemption from ERMS during 2000 and 2001 by operating with seasonal VOM emissions of no more

than 15 tons pursuant to a limitation applied for and established in their CAAPP permit.

24. Respondents failed to obtain an exemption from ERMS during 2000 and 2001 by operating with seasonal VOM emissions of no more than 15 tons pursuant to a limitation applied for and established in their CAAPP permit.

25. By failing to obtain an exemption from ERMS during 2000 and 2001 by operating with seasonal VOM emissions of no more than 15 tons pursuant to a limitation applied for and established in their CAAPP permit, Respondents violated Sections 6.3(b) and 9.2.1. of CAAPP permit no. 96020120.

26. By violating Sections 6.3(b) and 9.2.1 of CAAPP permit no. 96020120, Respondents violated Section 39.5 of the Act and Section 205.205 of the Board's Air Pollution Regulations.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board enter an order in favor of Complainant and against Respondents on this Count III:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;

2. Finding that Respondents violated the Act and regulations as alleged herein;

3. Ordering Respondents to cease and desist from any further violations of the Act and regulations;

4. Assessing against Respondents a civil penalty of Ten Thousand dollars (\$10,000.00) for each day during which the violations continued;

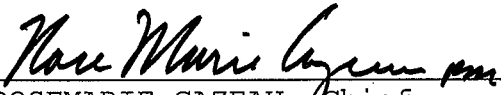
5. Assessing against Respondents the Complainant's costs and reasonable attorney's fees; and

6. Granting such other relief as the Board deems appropriate.

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

BY:


ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL:

MICHAEL C. PARTEE
Environmental Bureau
Assistant Attorney General
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601
Tel: (312) 814-2069
Attorney ID# 99000

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the Complaint was sent by certified mail with return receipt requested to each of the persons listed on the Notice of Filing on January 30, 2004.

BY: 
MICHAEL C. PARTEE

It is hereby certified that the originals plus nine (9) copies of the foregoing were hand-delivered to the following person on January 30, 2004:

Pollution Control Board, Attn: Clerk
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

BY: 
MICHAEL C. PARTEE