



nature of Rogers' 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)), which bears on the reasonableness of the circumstances surrounding the alleged violation. The People and Rogers have satisfied Section 103.302. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2002), *as amended by P.A. 93-575* (eff. Jan. 1, 2004)), which may mitigate or aggravate the civil penalty amount. Rogers admits the alleged violation and agrees to pay a civil penalty of \$5,000, which the parties stipulate is at least as great as Rogers' economic benefit from delayed compliance. 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. Rogers must pay a civil penalty of \$5,000 no later than December 6, 2004, which is the first business day following the 30th day after the date of this order. Rogers 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 Rogers' federal employer identification number must be included on the certified check or money order.
3. Rogers must send the certified check or money order to:
 

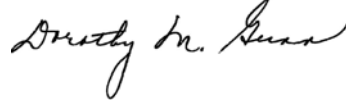
Illinois Environmental Protection Agency  
Fiscal Services Section  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. Rogers must cease and desist from further 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 November 4, 2004, by a vote of 5-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board