

ILLINOIS POLLUTION CONTROL BOARD  
December 2, 2004

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 04-101
	)	(Enforcement - Air)
DUPAGE MACHINE PRODUCTS, INC., a	)	
Delaware corporation,	)	
	)	
Respondent.	)	

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

On December 23, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against DuPage Machine Products, Inc. (DuPage Machine Products). See 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The complaint concerns DuPage Machine Products's screw products manufacturing facility at 99 International Boulevard, Glendale Heights, DuPage County. The parties now seek to settle. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2002)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. See 415 ILCS 5/31 (2002); 35 Ill. Adm. Code 103. In this case, the People allege that DuPage Machine Products violated Section 9(b) and 9.1(d)(2) of the Act (415 ILCS 5/9(b) and 9.1(d)(2) (2002)); 35 Ill. Adm. Code 201.302(a), 254.132(a), and 254.137(a); 40 C.F.R. 63.467(b) and 63.468(f) and (h), as enforceable under Section 9.1(d) of the Act (35 Ill. Adm. Code 5/9.1(d) (2002)); and conditions 6(b)(v)(A) and (b)(v)(B) and 7(b) and (c) of federally enforceable state operating permit (FESOP) number 97050122 by failing to maintain required records and submit required reports to the Illinois Environmental Protection Agency.

On October 25, 2004, the People and DuPage Machine Products 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)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. See 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Liberty Suburban Chicago Newspapers* on November 4, 2004. 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).

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). Under the proposed stipulation, DuPage Machine Products neither admits nor denies the allegation but agrees to pay a civil penalty of \$37,500.

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 DuPage Machine Products' 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 violations.

DuPage Machine Products neither admits nor denies the alleged violations. 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. DuPage Machine Products agrees to pay a civil penalty of \$37,500, which the parties stipulate is sufficient to deter future violations by DuPage Machine Products and other similarly situated. The parties agree that DuPage Machine Products derived economic benefit from delayed compliance, but that amount has not been determined.

The People and DuPage Machine Products have satisfied Section 103.302. 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. DuPage Machine Products must pay a civil penalty of \$37,500 no later than January 3, 2005, which is the 30th day after the date of this order. DuPage Machine Products must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and DuPage Machine Products's federal employer identification number must be included on the certified check or money order.
3. DuPage Machine Products 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

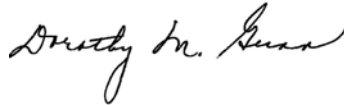
set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).

5. DuPage Machine Products 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 2, 2004, by a vote of 5-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board