ILLINOIS POLLUTION CONTROL BOARD January 6, 2005

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
V.)	PCB 04-136
)	(Enforcement - Air)
CROMWELL-PHOENIX, INC., an Illinois)	
corporation,)	
)	
Respondent.)	

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

On February 5, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Cromwell-Phoenix, Inc. (Cromwell). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that Cromwell violated Sections 9(a) and (b) of the Environmental Protection Act (Act) (415 ILCS 5/9(a), (b) (2002)), and Sections 201.141, 201.142, 201.143, and 218.204 of the Board's air pollution regulations (35 Ill. Adm. Code 201.141, 201.142, 201.143, and 218.204). The People further allege that Cromwell violated these provisions by causing, threatening or allowing air pollution, constructing an air pollution source without a permit, operating an air pollution source without an operating permit, exceeding emissions limits for a coating line, and failing to demonstrate compliance with emissions limits for a coating line. The complaint concerns Cromwell's corrosion inhibiting paper-coating facility at 12701 South Ridgeway Avenue, Alsip, Cook County.

On December 6, 2004, the People and Cromwell 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 III. 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 December 10, 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 III. 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 III. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of Cromwell'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 Cromwell have satisfied Section 103.302. Under the proposed stipulation, Cromwell neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$60,000. The settlement does not include a supplemental environmental project. 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. Cromwell Phoenix, Inc. (Cromwell) must pay a civil penalty of \$60,000 no later than February 2, 2005, which is the 30th day after the date of this order. Cromwell must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Cromwell's social security number or federal employer identification number must be included on the certified check or money order.
- 3. Cromwell 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. A copy of the certified check or money order must be sent to:

Michael C. Partee Assistant Attorney General Environmental Bureau/North 188 West Randolph Street, Suite 2001 Chicago, Illinois 60601

Maureen Wozniak Assistant Counsel Illinois Environmental Protection Agency 1021 North Grant Avenue Easte P.O. Box 19276 Springfield, Illinois 62794-9276

- 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)).
- 6. Cromwell 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 January 6, 2005, by a vote of 5-0.

Dretty In. Sunn

Dorothy M. Gunn, Clerk Illinois Pollution Control Board