ILLINOIS POLLUTION CONTROL BOARD February 17, 2005

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 03-101
)	(Enforcement - Air)
WERNER CO., a Pennsylvania corporation,)	
)	
Respondent.)	

ORDER OF THE BOARD (by A.S. Moore):

On January 13, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Werner Co. (Werner) alleging air pollution and permitting violations. The complaint concerns Werner's extrusion fabrication and manufacturing facility at 10800 West Belmont Avenue, in Franklin Park, Cook County. At its Franklin Park facility, Werner fabricates ladders, scaffolding, stages, and planks. The parties now seek to settle without a public hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2002)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2002); 35 Ill. Adm. Code 103. In this case, the People allege in count I of the complaint that Werner violated Section 9(a) of the Act (415 ILCS 5/9(a) (2002)) and the Board's air pollution control regulations (35 Ill. Adm. Code 201.141, 218.986) by emitting volatile organic material (VOM) in violation of applicable control requirements for VOM. Count II alleges that Werner violated Section 9(b) of the Act (415 ILCS 5/9(b) (2002)) and the Board's air pollution control regulations (35 Ill. Adm. Code 201.142) by failing to obtain a construction permit from the Illinois Environmental Protection Agency (Agency) before constructing new emission sources and air pollution control equipment. In count III of the complaint, the People allege that Werner violated Section 9(b) of the Act and the Board's air pollution control regulations (35 Ill. Adm. Code 201.143) by failing to obtain an operating permit from the Agency before operating new emission sources and air pollution control equipment.

On February 4, 2005, the People and Werner 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). Under the stipulation and proposed settlement, Werner does not admit the alleged violations, but agrees to pay a civil penalty of \$32,000 and to

operate and maintain all equipment and systems relating to a Supplemental Environmental Project (SEP) at its Franklin Park facility. The SEP, according to the stipulation and proposed settlement, consists of the conversion of an open bath pultrusion machine to a pre-form resin injection machine. The parties state that Werner began implementing the SEP in 2001, and the capital cost of the SEP was approximately \$139,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2002); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 17, 2005, by a vote of 4-0.

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Dorothy M. Gunn, Clerk Illinois Pollution Control Board