ILLINOIS POLLUTION CONTROL BOARD July 7, 2005

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 04-194
DUR-O-WAL, INC.,)	(Enforcement - Water)
Respondent.)	

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

On May 6, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Dur-O-Wal, Inc. (Dur-O-Wal) *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The People allege that Dur-O-Wal violated Sections 12(a), (b), and (f) of the Environmental Protection Act (Act) and Sections 304.105, 304.141(b), and 309.102(a) of the Board's water quality regulations. The People further allege that Dur-O-Wal violated these provisions by discharging contaminants into a storm sewer without a National Pollutant Discharge Elimination System (NPDES) permit and for discharging contaminants in violation of its existing NPDES permit. The complaint concerns Dur-O-Wal's wire drawing, fabrication, and zinc galvanizing facility located at 625 Crain Street, Aurora, Kane County.

On May 31, 2005, the People and Dur-O-Wal 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) (2004)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)). 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 Beacon News* on June 3, 2005. 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) (2004); 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 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 Dur-O-Wal'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) (2004)). The People and Dur-O-Wal have satisfied Section 103.302. Dur-O-Wal neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$30,000. 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. Dur-O-Wal must pay a civil penalty of \$30,000 no later than August 6, 2005, which is the 30th day after the date of this order. Dur-O-Wal must pay the civil penalty by certified check, money order, or electronic funds transfer payable to the Illinois Attorney General's Office, designated to the Illinois Attorney General's State Projects and Court Ordered Distribution Fund. The case number, case name, and Dur-O-Wal's social security number or federal employer identification number must be included on the certified check, money order, or electronic funds transfer.
- 3. Dur-O-Wal must send the certified check, money order, or record of electronic funds transfer by overnight mail to:

RoseMarie Cazeau Chief, Environmental Bureau Illinois Attorney General's Office 188 West Randolph Street 20th Floor Chicago, Illinois 60601

4. A copy of the certified check, money order, or record of electronic funds transfer shall be sent to:

Ms. Bridget Carlson Assistant Attorney General Environmental Bureau 188 West Randolph Street, 20th Floor Chicago, Illinois 60601

- 5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
- 6. Dur-O-Wal 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) (2004); 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 July 7, 2005, by a vote of 4-0.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board