

ILLINOIS POLLUTION CONTROL BOARD
September 1, 2005

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 04-205
)	(Enforcement – Air, Water)
ALL STATES PAINTING, INC.,)	
)	
Respondent.)	

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

On May 21, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a 4-count complaint against All States Painting, Inc. (All States). *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The People allege that All States violated Sections 9(a) and 12(a) and (d) of the Environmental Protection Act (Act), Section 201.141 of the Board’s air pollution regulations, and Section 302.203 of the Board’s water pollution regulations. The People further allege that All States violated these provisions as a result of a bridge painting project over the Illinois River during the summer of 2002. The project included applications of a gray zinc-based rust proof primer, a white epoxy intermediate primer, and a blue oil-based, polyurethane finish coat. All States owned and operated a corporation located in Alexander, Morgan County.

On July 1, 2005, the People and All States 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 Ill. Adm. Code 103.300(a). Under the proposed stipulation, All States neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$19,000. The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in *Jacksonville Journal-Courier* on July 23, 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 Ill. 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 All States’ 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 All States have satisfied Section 103.302. All States neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$19,000. 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. All States Painting, Inc. (All States) must pay a civil penalty of \$19,000 no later than October 1, 2005, which is the 30th day after the date of this order. All States must pay the civil penalty by certified check, money order, or electronic funds payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and All States' social security number or federal employer identification number must be included on the certified check, money order, or transfer of electronic funds.
3. All States must send the certified check, money order, or record of electronic funds transfer to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

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

Jennifer Bonkowski
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, IL 62702

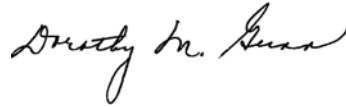
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
5. All States must cease and desist from the alleged 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 September 1, 2005, 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