

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
- vs -)	PCB No. 06-
)	(Enforcement - Air)
DOT PACKAGING GROUP, INC., an)	
Indiana corporation,)	
)	
Respondent.)	

NOTICE OF FILING

TO: See Attached Service List (VIA ELECTRONIC FILING)

PLEASE TAKE NOTICE that today I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a copy of which is attached and hereby served upon you.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the clerk's office or an attorney.

NOTIFICATION

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental facilities financing act [20 ILCS 3515/1 *et seq.*] to correct the alleged pollution.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN

Attorney General of the State of Illinois

BY:



PAULA BECKER WHEELER

Assistant Attorney General

Environmental Bureau

188 W. Randolph St., 20th Floor

Chicago, Illinois 60601

312-814-1511

DATE: September 12, 2005


THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

Ms. Katherine D. Hodge
Attorney at Law
Hodge Dwyer Zeman
3150 Roland Avenue
P.O. Box 5776
Springfield, IL 62705-5776

CERTIFICATE OF SERVICE

I, PAULA BECKER WHEELER, an attorney, do certify that I caused to be served this 12th day of September, 2005, the foregoing Complaint and Notice of Filing upon the person listed on said Notice, by Certified Mail and U.S. MAIL.



PAULA BECKER WHEELER
Assistant Attorney General

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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Complainant,)	
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-vs-)	
)	No.
DOT PACKAGING GROUP, INC.,)	
an Indiana corporation,)	(Enforcement - Air)
)	
Respondent.)	
)	

COMPLAINT

Complainant, People of the State of Illinois, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, DOT PACKAGING GROUP, INC., an Indiana corporation, as follows:

COUNT I

**FAILURE TO CONTROL COATING LINE WITH AN AFTERBURNER
PROVIDING AN 81 PERCENT OVERALL REDUCTION IN VOLATILE
ORGANIC MATERIALS**

1. This complaint is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency") pursuant to Section 31 of the Illinois Environmental Protection Act, 415 ILCS 5/31 (2004) ("Act").

2. The Illinois EPA is an administrative agency established in the executive branch of the State government by Section 4 of the Act, 415 ILCS 5/4 (2004), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this complaint, Respondent, DOT PACKAGING GROUP, INC., ("DOT") is and was a corporation organized under the laws of Indiana, authorized to do business in Illinois, and in good standing. DOT was formerly known as John D. Clarke & Co., Inc. and DOT Packaging Group-Clark Inc.

4. At all times relevant to this complaint, Respondent, DOT, was and is the owner and operator of the lithographic printing facility located at 1500 Paramount Parkway, Batavia, Kane County, Illinois ("Facility").

5. DOT's facility includes five uncontrolled printing lines, an uncontrolled coating line, and a coating line controlled by a catalytic oxidizer (afterburner). DOT's printing operations generate air emissions of volatile organic materials ("VOM"), from process emission sources and associated air pollution control equipment.

6. Respondent's operation of the facility is subject to the Act, the rules and regulations promulgated by the Illinois Pollution Control Board ("Board"), the Illinois EPA, and the conditions of Clean Air Act Permit Program (CAAPP) Permit No. 95090134. The Board's regulations for air pollution are found in Title 35, Subtitle B, Chapter I of the Illinois Administrative Code ("Board Air Pollution Regulations"), and the Illinois EPA rules and regulations for air pollution are found in Title 35, Subtitle B, Chapter II of the Illinois Administrative Code ("Illinois EPA Air Pollution Regulations").

7. DOT's CAAPP Permit No. 95090134 was originally issued January 25, 1999, and is still in effect pursuant to Kane County Circuit Court Order, case number 04 CH K 1348. The Permit establishes air pollutant emission limits and requirements for DOT's operations, recordkeeping, and reporting with reference to DOT's regulated process emission sources and control equipment.

8. Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), provides as follows:

No person shall:

- a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act[.]

9. Section 3.115 of the Act, 415 ILCS 5/3.115 (2004), defines air pollution as follows:

"AIR POLLUTION" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

10. Section 3.165 of the Act, 415 ILCS 5/3.165 (2004), defines contaminant as follows:

"CONTAMINANT" is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

11. VOM is a "contaminant" as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2004).

12. Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), defines person as follows:

"PERSON" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

13. Respondent, DOT, is a "person" as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2004).

14. Sections 218.207(b)(1) and (c) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.207(b)(1), provide, in pertinent part, as follows:

Section 218.207 Alternative Emission Limitations

* * *

(b) Alternative Add-On Control Methodologies

(1) The coating line is equipped with a capture system and control device that provides 81 percent reduction in the overall emissions of VOM from the coating line and the control device has a 90 percent efficiency, or ...

* * *

(c) No owner or operator of a coating line subject to only one of the emission limitations from among Section 218.204(a)(1), (a)(4), (c), (d), (e), (f), or (i) of this Subpart and equipped with a capture system and control device shall operate the subject coating line unless the requirements in subsection (b)(1) or (b)(2) of this Section are met. No owner or operator of a coating line subject to Section 218.204(a)(2) or 218.204(a)(3) and equipped with a capture system and control device shall operate the coating line unless the owner or operator demonstrates compliance with such limitation in accordance with the topcoat protocol referenced in Section 218.105(b).

* * *

15. DOT has elected to achieve compliance with the Board's coating regulations through the use of a capture and control device.

16. DOT conducted an afterburner efficiency test on February 17 and 18, 2004 at the request of the Illinois EPA. The test established that its capture system and afterburner were achieving an overall VOM reduction of 67 percent, and, therefore, failing to satisfy the required 81 percent reduction of overall VOM emissions

17. From approximately November 2002, when an annual maintenance test was

performed, or on a date better known to the Respondent, and continuing until June 29, 2004, when DOT passed a compliance test, DOT failed to operate a control system on its coating line achieving the requisite control of VOM emissions in violation of Sections 218.207(b)(1) and (c) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.207(b)(1) and (c).

18. By violating Sections 218.207(b)(1) and (c) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.207(b)(1) and (c), Respondent also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an Order against Respondent, DOT PACKAGING GROUP, INC., on this Count I:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), and Sections 218.207(b)(1) and (c) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.207(b)(1) and (c);

C. Ordering Respondent to cease and desist from any further violations of Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), and Sections 218.207(b)(1) and (c) of the Board's Air Pollution Regulations, 35 Ill. Adm. Code 218.207(b)(1) and (c);

D. Assessing a civil penalty of \$50,000.00 against Respondent for each violation of the Section 9(a) of the Act and pertinent Board regulations, with an additional penalty of \$10,000.00 per day for each day that the violations continued;

E. Taxing all costs in this action, including expert witness, consultant and attorneys fees, against Respondent; and

F. Granting such other relief as the Board deems appropriate and just.

COUNT II

**FAILURE TO INSTALL, CALIBRATE, MAINTAIN AND OPERATE A
CONTINUOUS TEMPERATURE MONITORING DEVICE ON ITS
AFTERBURNER**

1-17. Plaintiff realleges and incorporates by reference herein paragraphs 1 through 17 of Count I as paragraphs 1 through 17 of this Count II.

18. Section 218.105(d)(2)(A)(ii) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.105(d)(2)(A)(ii), provides, in pertinent part, as follows:

Section 218.105 Test Methods and Procedures

* * *
d) Control Device Efficiency Testing and Monitoring
* * *

2) An owner or operator:

(A) That uses an afterburner or carbon adsorber to comply with any section of Part 218 shall use Agency or USEPA approved continuous monitoring equipment which is installed, calibrated, maintained, and operated according to vendor specifications at all times the afterburner or carbon adsorber is in use except as provided in subsection (d)(3) of the Section. The continuous monitoring equipment must monitor the following parameters:

* * *

(ii) For each afterburner which has a catalyst bed, commonly known as a catalytic afterburner, the temperature rise across each catalytic afterburner bed or VOM concentration of exhaust.

* * *

19. Section 218.211(e)(2)(B) of the Board Air Pollution Regulations, 35 Ill.

Adm. Code 218.211(e)(2)(B), provides, in pertinent part, as follows:

Section 218.211 Recordkeeping and Reporting

* * *

e) Any owner or operator of a coating line subject to the limitations of 218.207 of this Subpart and complying by means of Section 218.207(c), (d), (e), (f), (g) or (h) of this Subpart shall comply with the following:

* * *

2) On and after a date consistent with Section 218.106 of this Part, or on and after the initial start-up date, the owner or operator of a subject coating line shall collect and record all of the following information each day for each coating line and maintain the information at the source for a period of three years:

* * *

(B) Control device monitoring data.

* * *

20. From September 1993 to February 2004, DOT failed to install, operate, and maintain a continuous temperature monitor and recorder on its afterburner.

21. DOT's failure to install, operate and maintain a continuous temperature monitor and recorder, violated Sections 218.105(d)(2)(A)(ii) and 218.211(e)(2)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 218.105(d)(2)(A)(ii) and 218.211(e)(2)(B).

22. As a result of these violations, Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS,
respectfully requests that the Board enter an Order against Respondent, DOT
PACKAGING GROUP, INC., on this Count II:

A. Authorizing a hearing in this matter at which time the Respondent will be
required to answer the allegations herein;

B. Finding that Respondent has violated Section 9(a) of the Act, 415 ILCS 5/9(a)
(2004), and Sections 218.105(d)(2)(A)(ii) and 218.211(e)(2)(B) of the Board Air
Pollution Regulations, 35 Ill. Adm. Code 218.105(d)(2)(A)(ii) and 218.211(e)(2)(B);

C. Ordering Respondent to cease and desist from any further violations of
Section 9(a) of the Act, 415 ILCS 5/9(a) (2004), and Sections 218.105(d)(2)(A)(ii) and
218.211(e)(2)(B) of the Board Air Pollution Regulations, 35 Ill. Adm. Code
218.105(d)(2)(A)(ii) and 218.211(e)(2)(B);

D. Assessing a civil penalty of \$50,000.00 against Respondent for each violation
of the Act and pertinent Board regulations, with an additional penalty of \$10,000.00 per
day for each day that the violations continued;

E. Taxing all costs in this action, including expert witness, consultant and
attorneys fees, against Respondent; and

F. Granting such other relief as the Board deems appropriate and just.

COUNT III

FAILURE TO SUBMIT COMPLETE AND ACCURATE ANNUAL EMSSISSION REPORTS

1-17. Plaintiff realleges and incorporates by reference herein paragraphs 1
through 17 of Count I as paragraphs 1 through 17 of this Count III.

18. Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a), provides as follows:

a) The owner or operator of any emission unit or air pollution control equipment, unless specifically exempted in this Section, shall submit to the Agency as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports where necessary to accomplish the purposes of the Act and this Chapter.

* * *

19. Section 254.132(a) of the Illinois EPA Air Pollution Regulations, 35 Ill. Adm. Code 254.132(a), provides as follows:

a) Failure to file a complete Annual Emissions Report by the applicable deadlines prescribed in Section 254.137(a) of this Subpart shall be a violation of this Part and 35 Ill. Adm. Code 201.302(a).

20. DOT submitted Annual Emission Reports ("AERs") for calendar years 1999 through 2003 to the Illinois EPA that did not correctly estimate emissions from the source because the estimations were based on an 81% overall control efficiency which the afterburner was not achieving.

21. Because of this improper reliance on an 81 % overall control efficiency, DOT failed to submit complete and accurate AERs for calendar years 1999 through 2003, in violation of Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code 201.302(a).

22. As a result of these violations, Respondent violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS,
respectfully requests that the Board enter an Order against Respondent, DOT
PACKAGING GROUP, INC., on this Count III:

A. Authorizing a hearing in this matter at which time the Respondent will be
required to answer the allegations herein;

B. Finding that Respondent has violated Sections 9(a) of the Act, 415 ILCS 5/9(a)
(2004), and Section 201.302(a) of the Board Air Pollution Regulations, 35 Ill. Adm. Code
201.302(a);

C. Ordering Respondent to cease and desist from any further violations of
Sections 9(a) of the Act, 415 ILCS 5/9(a) (2004), and Section 201.302(a) of the Board
Air Pollution Regulations, 35 Ill. Adm. Code 210.302(a);

D. Assessing a civil penalty of \$50,000.00 against Respondent for each violation
of the Act and pertinent Board regulations, with an additional penalty of \$10,000.00 per
day for each day that the violations continued;

E. Taxing all costs in this action, including expert witness, consultant and
attorneys fees, against Respondent; and

F. Granting such other relief as the Board deems appropriate and just.

COUNT IV

VIOLATIONS OF THE CAAPP PERMIT

1-24. Plaintiff realleges and incorporates by reference herein paragraphs 1
through 17 of Count I, paragraphs 18 through 20 of Count II, and paragraphs 18 through
21 of Count III as paragraphs 1 through 24 of this Count IV.

25. Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2004), provides, in pertinent part, as follows:

- a) It shall be unlawful for any person to violate any terms or conditions of a permit issued under this Section, to operate any CAAPP source except in compliance with a permit issued by the agency under this Section or to violate any other applicable requirements. ...

* * *

26. Condition 7.2.3(e) of CAAPP Permit No. 95090134 provides as follows:

For the affected coating line #1 (CL-1) at the source, the Permittee has elected to comply with 35 IAC 218.207, which is an alternate to 35 IAC 218.204 and which provides that:

- i. Any owner or operator of a coating line subject to 35 IAC 218.204 may comply with 35 IAC 218.207, rather than 35 IAC 218.204, if a capture system and control device are operated and the owner or operator demonstrates compliance with Condition 7.2.3(e)(ii)(35 IAC 218.207(c)) through applicable coating analysis and capture system and control device efficiency test methods and procedures specified in 218.211 (e); and the control device is equipped with the applicable monitoring equipment specified in 218.105(d) and the monitoring equipment is installed, calibrated, operated and maintained according to vendor specifications at all times the control device is in use [35 IAC 218.207(a)].
- ii. No owner or operator of a coating line subject to the emission limitations in Condition 7.2.3(d) (35 IAC 218.204(c)) and equipped with a capture system and control device shall operate the affected coating line unless the capture system and control device that provides 81 percent reduction in the overall emissions of VOM from the coating line and the control device has a 90 percent efficiency [35 IAC 218.207(b)(I) and 218.201(c)].

27. From approximately November 2002, and continuing until June 2004, DOT failed to provide a capture system with the necessary reduction of 81 percent of overall emissions of VOM in violation of Condition 7.2.3(e) of CAAPP Permit No. 95090134.

28. Condition 7.2.5(b) of CAAPP Permit No. 95090134 provides as follows:

The Permittee shall follow good operating practices for the afterburner including periodic inspection, routine maintenance and prompt repair of defects.

29. From approximately November 2002, and continuing until June 2004, DOT allowed the afterburner to operate below the required overall control efficiency and allowed a crack to develop in the heat exchanger demonstrating a failure to follow good operating practices.

30. DOT's failure to follow good operating practices violated Condition 7.2.5(b) of CAAPP Permit No. 95090134.

31. Condition 7.2.8 of CAAPP Permit No. 95090134 provides as follows:

For the coating line #1 that is controlled by a catalytic afterburner, the Permittee shall install, calibrate, maintain, and operate a continuous monitoring equipment according to vendor specifications at all times the afterburner is in use. The continuous monitoring equipment must monitor the following parameter:

a. The temperature rise across each catalytic afterburner or VOM concentration of exhaust.

32. From January 1999, when its CAAPP permit issued, and continuing until February 2004, DOT failed to install, operate, and maintain a continuous temperature monitor and recorder on its afterburner in violation of Condition 7.2.8 of CAAPP Permit No. 95090134.

33. Condition 8.6.1 of CAAPP Permit No. 95090134 provides as follows:

A report summarizing required monitoring as specified in the conditions of this permit shall be submitted to the Air Compliance Section of the Illinois EPA every six months as follows [Section 39.5(7)(f) of the Act]:

Monitoring Period
January – June
July – December

Report Due Date
September 1
March 1

All instances of deviations from permit requirements must be clearly identified in such reports. All such reports shall be certified in accordance with Condition 9.9.

34. Beginning with the January – June 1999 period, and continuing to the present, DOT failed to submit semi-annual monitoring reports to the Illinois EPA in violation of Condition 8.6.1 of CAAPP Permit No. 95090134.

35. Condition 9.8 of CAAPP permit no. 95090134 provides as follows:

Pursuant to Section 39.5(7)(p)(v) of the Act, the Permittee shall submit compliance certifications annually or more frequently as specified in the applicable requirement or by permit condition.

a. The certifications shall include descriptions of means to monitor the compliance of the source including emissions limitations, standards, and work practices in accordance with the applicable requirements and permit conditions. The certification shall include the identification of each term or condition of this permit that is the basis of the certifications; the compliance status; whether compliance was continuous or intermittent; the method(s) used for determining the compliance status of the source, both currently and over the reporting period consistent with the conditions of this permit.

36. The annual compliance certifications that DOT submitted between 1999 and 2002 failed to indicate that DOT had not performed the required monitoring or that in 2002 that DOT was not in compliance with the 81% control requirement.

37. Due to these deficiencies, Respondent failed to submit complete and accurate annual compliance certifications to the Illinois EPA for calendar years 1999 through 2002 in violation of Condition 9.8 of CAAPP Permit No. 95090134.

38. By violating Conditions 7.2.3(e), 7.2.5(b), 7.2.8, 8.6.1, and 9.8 of CAAPP Permit No. 95090134, DOT violated Section 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS,
respectfully requests that the Board enter an Order against Respondent, DOT
PACKAGING GROUP, INC., on this Count IV:

A. Authorizing a hearing in this matter at which time the Respondent will be
required to answer the allegations herein;

B. Finding that Respondent has violated Section 39.5(6)(a) of the Act, 415 ILCS
5/39.5(6)(a) (2004), and Conditions 7.2.3(e), 7.2.5(b), 7.2.8, 8.6.1, and 9.8 of CAAPP
Permit No. 95090134;

C. Ordering Respondent to cease and desist from any further violations of
Sections 39.5(6)(a) of the Act, 415 ILCS 5/39.5(6)(a) (2004), and Conditions 7.2.3(e),
7.2.5(b), 7.2.8, 8.6.1, and 9.8 of CAAPP Permit No. 95090134;

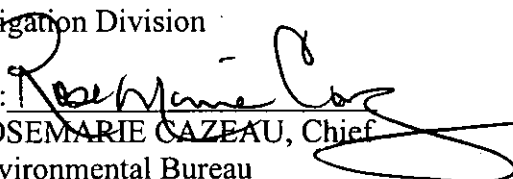
D. Assessing a civil penalty against Respondent of \$10,000.00 per day for the
duration of each violation;

E. Taxing all costs in this action, including expert witness, consultant and
attorneys fees, against Respondent; and

F. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN,
Attorney General of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

By: 
ROSEMARIE CAZEAU, Chief
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