

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 Perfetti Van Melle'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)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

Perfetti Van Melle neither admits nor denies the alleged violations. Perfetti Van Melle has terminated all operations at the Buffalo Grove facility and agrees to obtain all necessary permits and approvals before recommencing. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount. Perfetti Van Melle agrees to pay a civil penalty of \$120,000. Perfetti Van Melle further agrees to pay \$60,909.39 for purchase of allotment trading units (ATUs) from the Agency's Alternative Compliance Market Account (ACMA) for the 2000 and 2001 emissions seasons, and \$1,800 for the 2004 annual air pollution site fee. The parties stipulate that payment of this penalty and these fees negates any economic benefit derived from delayed compliance. The People further assert that this civil penalty will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

The People and Perfetti Van Melle have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement. This docket is now closed.

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. Perfetti Van Melle, through its attorney of record, must pay each of the following no later than August 7, 2006, which is the first business day after the 30th day after the date of this order:
 - a. A civil penalty of \$120,000;
 - b. The amount of \$60,909.39 for past-due ATUs, as provided in the ACMA bill that the Agency issued to Perfetti Van Melle on or about June 25, 2004; and
 - c. The amount of \$1,800 for the 2004 air pollution site fees, as provided in the that the Agency invoice issued to Perfetti Van Melle on or about December 8, 2004.

Perfetti Van Melle must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Environmental Protection Trust Fund. The case number, case name, and Perfetti Van Melle's social security number or federal employer identification number must be included on the certified check or money order.

3. Perfetti Van Melle, through its attorney of record, must send the certified check, money order, or electronic funds transfer to the following person at the indicated address:

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

4. Perfetti Van Melle, through its attorney of record, must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following person at the indicated address:

George D. Theophilos, Assistant Attorney General
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, Illinois 60601

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

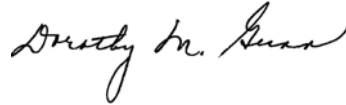
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
6. Perfetti Van Melle must cease and desist from the 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 6, 2006, by a vote of 4-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board