## ILLINOIS POLLUTION CONTROL BOARD July 20, 2006

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 04-193
	)	(Enforcement - Air)
FELLOWES MANUFACTURING	)	
COMPANY a/k/a FELLOWES, INC.,	)	
	)	
Respondent.	)	

## OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On May 6, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against Fellowes Manufacturing Company. *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns flexographic printing lines at Fellowes Manufacturing Company's office supplies and corrugated box manufacturing facility at 1789 Norwood Avenue, Itasca, DuPage County. The parties now seek to settle. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 et seq. (2004)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. See 415 ILCS 5/31 (2004); 35 Ill. Adm. Code 103. In this case, the People allege that Fellowes Manufacturing Company violated Sections 9(a) and (b) and 39.5(6)(b) of the Act (415 ILCS 5/9(a) and (b) and 39.5(6)(b) (2004)) and 35 Ill. Adm. Code 201.142, 201.143, 203.201, and 254.132(a) by (1) failing to obtain a construction permit; (2) failing to obtain a State operating permit; (3) failing to submit a Clean Air Act Permit Program (CAAPP) application; (4) constructing a major stationary source in violation of New Source Review requirements; and (5) failing to submit annual emissions reports.

On June 8, 2006, the People and Fellowes Manufacturing Company 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)), 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). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Itasca Press/Liberty Suburban Chicago* on June 22, 2006. 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 Fellowes Manufacturing Company'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.

Fellowes Manufacturing Company denies the alleged violations. 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. Fellowes Manufacturing Company agrees to pay a civil penalty of \$189,250 and to make an additional payment of \$10,750 in avoided air pollution site fees for the years 1986 through 2001, which the parties stipulate negates any economic benefit derived from delayed compliance. The People further assert will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

The People and Fellowes Manufacturing Company 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. Fellowes Manufacturing Company, through its attorney of record, must pay a civil penalty of \$189,250 no later than August 21, 2006, which is the first business day after the 30th day after the date of this order. Fellowes Manufacturing Company 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 Fellowes Manufacturing Company's federal employer identification number must be included on the certified check or money order.
- 2. Fellowes Manufacturing Company, through its attorney of record, must pay \$10,750 in avoided air pollution site fees for the years 1986 through 2001 no later than August 21, 2006, which is the first business day after the 30th day after the date of this order. Fellowes Manufacturing Company must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Environmental Inspection and Permit Fund. The case number, case name, and Fellowes Manufacturing Company's federal employer identification number must be included on the certified check or money order.
- 3. Fellowes Manufacturing Company, 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. Fellowes Manufacturing Company, 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:

Rebecca A. Burlingham, Assistant Attorney General Environmental Bureau 188 West Randolph Street, 20th Floor Chicago, Illinois 60601

Maureen 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. Fellowes Manufacturing Company 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 20, 2006, by a vote of 4-0.

Drucky In. June

Dorothy M. Gunn, Clerk Illinois Pollution Control Board