ILLINOIS POLLUTION CONTROL BOARD October 7, 2010

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
•)	
v.)	PCB 10-77
)	(Enforcement - Air)
AVANTE, LLC, an Illinois limited liability)	
company,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by G.L. Blankenship):

On April 6, 2010, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a seven-count complaint against Avante, LLC (Avante). The complaint concerns Avante's lithographic printing business formerly located at 865 North Ellsworth Avenue in Villa Park, DuPage County and subsequently located at 1228 West Capital Drive in Addison, DuPage County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), 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 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that Avante violated Sections 201.142 and 201.143 of the Board's air pollution regulations (35 Ill. Adm. Code 201.142, 201.243) and Section 9(b) of the Act (415 ILCS 5/9(b) (2008)) by constructing and operating printing presses, which were emissions sources, without first obtaining the requisite permits from the Illinois Environmental Protection Agency (Agency) (counts 1 and 2). The People also allege that Avante violated Sections 218.411(a)(1) and (a)(2) of the Board's air pollution regulations (35 Ill. Adm. Code 218.411(a)(1), (a)(2)) and Sections 9(a), 9.12(a), and 9.12(j) of the Act (415 ILCS 5/9(a), 9.12(a), 9.12(j) (2008)) by failing to submit required certification to the Agency, keep required records, and pay construction permit fees (counts 3, 4, and 7). In addition, the People allege that Avante violated Section 201.302(a) of the Board's air pollution regulations (35 Ill. Adm. Code 201.302(a)), Section 254.132(a) of the Agency's air pollution regulations (35 Ill. Adm. Code 254.132(a)), and Section 9(a) of the Act (415 ILCS 5/9(a) (2008)) by failing to submit Annual Emissions Reports (AERs) for 1992 through 2005 and for 2008 and by failing to timely submit an AER for 2006 (count 5). Finally, the People allege that Avante violated Section 212.309(a) of the Board's air pollution regulations (35 Ill. Adm. Code 212.309(a)) and Section 9(a) of the Act (415 ILCS 5/9(a) (2008)) by operating emissions sources without submitting an operating program to control fugitive particulate matter emissions (count 6).

On August 3, 2010, the People and Avante 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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. The newspaper notice was published in the Addison/Bensenville/Wood Dale/Villa Park Press on August 27, 2010. 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) (2008); 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. *See* 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 Avante'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) (2008)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Avante does not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2008)), which may mitigate or aggravate the civil penalty amount. Avante agrees to pay a civil penalty of \$10,000, \$800 of which represents avoided permit fees. The People and Avante have satisfied Section 103.302. 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. Avante must pay a civil penalty of \$10,000 no later than November 8, 2010, which is the first business day following the 30th day after the date of this order. Avante must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency. One payment of \$800 must be directed for deposit into the Permit and Inspection Fund, and a second payment of \$9,200 must be directed for deposit into the Environmental Protection Trust Fund. The case name, case number, and Avante's federal tax identification number must appear on the face of each certified check or money order.
- 3. Avante must submit payments of the civil penalty to:

Illinois Environmental Protection Agency Fiscal Services Division 1021 North Grand Avenue East P.O. Box 19276 Springfield, Illinois 62794-9276 Avante must send a copy of each certified check or money order and any transmittal letter to:

AAG Evan J. McGinley Environmental Bureau Illinois Attorney General's Office 69 West Washington Street, Suite 1800 Chicago, Illinois 60602

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
- 5. Avante must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject matter of the complaint.

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) (2008); 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, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on October 7, 2010, by a vote of 5-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board

John T. Therrian