ILLINOIS POLLUTION CONTROL BOARD April 7, 2016

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OPINION AND ORDER OF THE BOARD (by D. Glosser):

On February 29, 2016, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Fiberbasin, Inc. (Fiberbasin). The complaint concerns Fiberbasin's business located at 1500 Dearborn Avenue, Building 13, in Aurora, Kane County. Accompanying the complaint was a stipulation, proposal for settlement, and request for relief from the hearing requirement. The parties seek to settle the complaint 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 (2014)), 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 (2014); 35 Ill. Adm. Code 103. In this case, the People allege that Fiberbasin violated Sections 9(a) and 31(a)(7.6) of the Act (415 ILCS 5/9(a) and 31(a)(7.6) (2014)), Section 201.302(a) of the Board's air pollution regulations (35 Ill. Adm. Code 201.302(a)), and Section 254.132(a) of the Illinois Environmental Protection Agency's air pollution regulations (35 Ill. Adm. Code 254.132(a)). The People allege that Fiberbasin violated these provisions by failing to timely submit annual emission reports, and violating the terms and conditions of a compliance commitment agreement.

On February 29, 2016, simultaneously with the People's complaint, the People and Fiberbasin 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) (2014)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2014)), 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 Aurora Beacon News on March 6, 2016. 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) (2014); 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 Fiberbasin'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) (2014)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Fiberbasin admits to the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2014)), which may mitigate or aggravate the civil penalty amount. Fiberbasin agrees to pay a civil penalty of \$4,000. The People and Fiberbasin 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. Fiberbasin, Inc. (Fiberbasin) must pay a civil penalty of \$4,000 no later than May 9, 2016 which is the first business day following the 30th day after the date of this order. Fiberbasin must pay the civil penalty by certified check, money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name and case number shall appear on the face of the certified check or money order.
- 3. Fiberbasin must submit payment 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

Fiberbasin must send a copy of the certified check, money order and any transmittal letter to:

Ellen F. O'Laughlin Assistant Attorney General Environmental Bureau Illinois Attorney General's Office 69 W. 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) (2014)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2014)).
- 5. Fiberbasin must cease and desist from future violations of the 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) (2014); 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 T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on April 7, 2016, by a vote of 5-0.

John T. Therriault, Clerk

Illinois Pollution Control Board