## ILLINOIS POLLUTION CONTROL BOARD December 7, 2017

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	)	
Complaniant,	)	
v.	)	PCB 18-16
	)	(Enforcement - Air)
WORK AREA PROTECTION CORP., an	)	
Illinois corporation,	)	
	)	
Respondent.	)	

## OPINION AND ORDER OF THE BOARD (by C.M. Santos):

On October 19, 2017, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Work Area Protection Corp. (WAP). The complaint concerns WAP's plastic molding facility located at 2500 Production Drive in St. Charles, Kane County. Accompanying the complaint were a stipulation, proposed settlement, and request for relief from the hearing requirement. For the reasons below, the Board grants the parties' request for relief and accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2016)), 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 (2016); 35 Ill. Adm. Code 103. In this case, the People allege that WAP violated Sections 201.302 and 254.132 of the air pollution regulations (35 Ill. Adm. Code 201.302, 254.132) and thereby also violated Section 9(a) of the Environmental Protection Act (Act) (415 ILCS 5/9(a) (2016) by failing to submit timely annual emission reports for 2015 and 2016.

On October 19, 2017, the People and WAC 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) (2016)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2016)), 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 *Kane County Chronicle* on November 9, 2017. 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) (2016); 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 WAP'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) (2016)), which bears on the reasonableness of the circumstances surrounding the alleged violations. WAP neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2016)), which may mitigate or aggravate the civil penalty amount. WAP agrees to pay a civil penalty of \$10,000. The People and WAP 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. Work Area Protection Corp. must pay a civil penalty of \$10,000 no later than Monday, January 8, 2018, which is the first business day following the 30th day after the date of this order. Work Area Protection Corp must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name and case number must appear on the face of the certified check or money order.
- 3. Work Area Protection Corp. 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

Work Area Protection Corp. must send a copy of the certified check or money order and any transmittal letter to:

Christopher J. Grant Illinois Attorney General's Office Environmental Bureau 69 W. Washington, Suite 1800 Chicago, Illinois 60602 cgrant@atg.state.il.us

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2016)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2016)).

5. Work Area Protection Corp. must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject 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) (2016); *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. Filing a motion asking that the Board reconsider this final order is not a prerequisite to appealing the order. 35 Ill. Adm. Code 101.902.

Names and Addresses for Receiving Service of			
Any Petition for Review Filed with the Appellate Court			
Parties	Board		
Illinois Attorney General's Office	Illinois Pollution Control Board		
Attn: Christopher Grant	Attn: Don A. Brown, Clerk		
Environmental Bureau	James R. Thompson Center		
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Chicago, Illinois 60602	Chicago, Illinois 60601		
cgrant@atg.state.il.us			
Work Area Protection Corp.			
Attn: Preston Mortemore			
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4000 Town Center, Suite 1800			
Southfield, Michigan 48075-1505			

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 7, 2017 by a vote of 5-0.

Don A. Brown, Clerk

Illinois Pollution Control Board