

ILLINOIS POLLUTION CONTROL BOARD  
January 19, 2006

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 04-192  
) (Enforcement – Land, Water)  
SMITHFIELD PROPERTIES, L.L.C., an )  
Illinois limited liability company, WOOTON )  
CONSTRUCTION, LTD., an Illinois )  
corporation, and CHICAGO SUN-TIMES, )  
INC., a Delaware corporation, )  
)  
Respondents. )

ORDER OF THE BOARD (by T.E. Johnson):

On May 5, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Smithfield Properties, L.L.C., Wooton Construction, LTD., and *Chicago Sun-Times, Inc.* The complaint alleges that *Chicago Sun-Times (Sun-Times)* violated Sections 12(a) and (d); and 57.6(a) of the Environmental Protection Act (Act) (415 ILCS 5/12(a) and (d); 57.6(a) (2004)) and 35 Ill. Adm. Code 732.202(e). The eleven-count complaint alleges that Smithfield Properties, L.L.C. (Smithfield) and Wooton Construction, LTD (Wooton) violated Sections 12(a), 57.6(a), 57.7(a)(1) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), 57.6(a), 57.7(a)(1) (2004)) and 35 Ill. Adm. Code 732.200; 732.202(a),(b),(d) and (e); 732.300(a); and 732.307(a).

The complaint alleges that the respondents failed to properly evaluate and comply with reporting and response requirements, and caused, threatened or allowed water pollution at a site located at 222 South Racine Avenue, Chicago, Cook County. The Board accepted the complaint for hearing on May 20, 2004.

On October 26, 2005, the People and the *Sun-Times* 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). These filings are authorized by Section 31(c)(2) of the Act. 415 ILCS 5/31(c)(2) (2004). See 35 Ill. Adm. Code 103.300(a). Respondents Smithfield Properties, L.L.C and Wooton Construction, LTD are not party to the stipulation. Under the proposed stipulation, the *Sun-Times* does not admit the violations alleged in the complaint, but agrees to pay a civil penalty of \$40,000.

The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Chicago Sun-Times* on November 21, 2005. 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 the respondents' 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.

As previously stated, the *Sun-Times* does not admit the violations alleged in the complaint, but agrees to pay a civil penalty of \$40,000. 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. The People determined that a civil penalty of \$40,000 was appropriate.

The People and the *Sun-Times* 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. The *Chicago Sun-Times* (*Sun-Times*) must pay a civil penalty of \$40,000 within 30 days from the date of this order.
3. The *Sun-Times* 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 respondents' federal employer identification or social security numbers must be included on the certified check or money order. If submitting an electronic funds transfer to the Agency, the electronic funds transfer must be made in accordance to the specific instructions provided to the *Sun-Times*.
4. The *Sun-Times* must submit the certified check, money order or electronic funds transfer to:

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

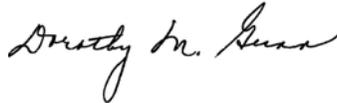
5. A copy of the certified check, money order or record of the electronic funds transfer and any transmittal letter must be sent to the following:

Mr. Zemeheret Bereket-Ab  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph Street, 20<sup>th</sup> Floor  
Chicago, Illinois 60601

6. 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).
7. The *Sun-Times* must cease and desist from the alleged violations.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 19, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board