

ILLINOIS POLLUTION CONTROL BOARD

September 9, 1999

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 Complainant, )  
 )  
 v. ) PCB 99-194  
 ) (Enforcement - Air)  
 ALABAMA METAL INDUSTRIES CORPORATION, a )  
 Delaware corporation, )  
 )  
 Respondent. )

OPINION AND ORDER OF THE BOARD (by M. McFawn):

On August 5, 1999, complainant filed a stipulation and proposal for settlement, accompanied by an agreed motion requesting relief from the hearing requirement imposed by Section 31(c)(1) of the Environmental Protection Act (Act) (415 ILCS 5/31(c)(1) (1998)). Public notice of the proposed settlement was published in the *Chicago Sun-Times* on August 9, 1999. In accordance with Section 31(c)(2) of the Act, any person may file a written demand for hearing within 21 days after publication of the notice. The Board received no written demand for a hearing. The Board therefore may, and will, grant the agreed motion for relief from the hearing requirement.

The five count complaint filed in this case alleges that respondent Alabama Metal Industries Corp. (AMI) violated Sections 9(a), 9(b), and 39.5(6)(b) of the Act, 415 ILCS 5/9(a), 9(b), 39.5(6)(b) (1998), and 35 Ill. Adm. Code 201.142, 201.143, 201.302(a), 203.201, 203.203(a), 218.204(j)(4)(A), 254.301(a), and 270.201(c), by constructing a major stationary source in a nonattainment area without a permit (count I), operating new emission sources without an operating permit (count II), failing to utilize coatings containing compliant concentrations of volatile organic material (VOM) (count III), operating a major stationary source without a Clean Air Act Permit Program (CAAPP) permit (count IV), and failing to submit annual emission reports (count V). Under the proposed settlement, AMI neither admits nor denies the allegations in the complaint, but agrees to pay a civil penalty of \$50,000.

The stipulation submitted by the parties sets forth facts relating to AMI's operations, the alleged violations, and the factors considered by the Board under Sections 33(c) and 42(h) of the Act, 415 ILCS 5/33(c), 42(h) (1998) in crafting final orders and determining monetary penalties. Based on the facts set forth in the stipulation, the Board concludes that the proposed settlement is reasonable. The Board will accept the proposal for settlement.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

1. The hearing requirement of Section 31(c)(1) of the Act is waived in this case.
2. The Board accepts the "Stipulation and Proposal for Settlement" executed by the People of the State of Illinois and AMI concerning AMI's facility located in Broadview, Cook County, Illinois. The "Stipulation and Proposal for Settlement" is incorporated by reference as though fully set forth herein. Although not every term of the settlement is set forth in this order, all terms of the settlement are incorporated into this order.
3. AMI must pay \$50,000 within 30 days of the date of this order. Such payment must be made by certified check or money order payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund. The name and number of this case and AMI's federal employer identification number must appear on the check.

4. The certified check or money order must be sent by first class mail to:

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

A copy of the check must be sent to:

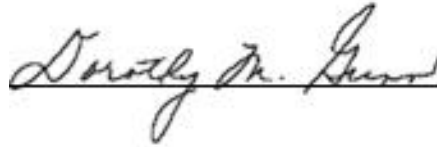
Johnna J. Pothoff  
Assistant Attorney General  
Environmental Bureau  
100 West Randolph Street, 11th Floor  
Chicago, Illinois 60601

5. Any penalty not paid within the time prescribed will incur interest at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003(a), as now or hereafter amended, from the date payment is due until the date payment is received. Interest will not accrue during the pendency of an appeal during which payment of the penalty has been stayed.
6. AMI must cease and desist from further violations of the Act and the regulations promulgated thereunder.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 9th day of September 1999 by a vote of 6-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board