

ILLINOIS POLLUTION CONTROL BOARD
January 23, 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 97-89
)	(Enforcement - Air)
API INDUSTRIES, INC., a Delaware)	
corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On November 14, 1996, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against API Industries, Inc. (API). See 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that API operated and constructed various equipment at the facility without a permit; exceeded volatile organic material (VOM) emission limits; failed to test coatings, certify compliance, or maintain daily records; and emitted fugitive particulate matter into traffic areas of the facility without first submitting an operating program to the Illinois Environmental Protection Agency. The People further allege that by doing so, API violated Sections 9(a) and 9(b) of the Environmental Protection Act (Act) and various sections of the Board rules.¹ 415 ILCS 5/9(a) and (b) (2002). This proceeding concerns API's electroplating facility in Elk Grove Village, Cook County.

On December 9, 2002, the People and API 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) (2002)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)). 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 *Chicago Sun-Times* on December 13, 2002. 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) (2002); 35 Ill. Adm. Code 103.300(b).

¹ The People alleged API violated Section 201.142 for construction without a permit; Section 201.143 for operating a new emission source or new air pollution control equipment without a permit; Section 218.204 for exceeding the maximum emissions limits for VOM; Section 218.105 for failing to test each of its coatings; Section 218.211(c)(1) for failure to certify compliance with Section 218.204; Section 218.211(c)(2) for failure to maintain daily records; and Section 212.309 for emitting fugitive particulate matter into traffic areas without an operating program. 35 Ill. Adm. Code 201.142, 201.143, 218.204(j)(2), 218.105, 218.211(c)(1) and (c)(2), and 212.309.

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 API'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) (2002)). The People and API have satisfied Section 103.302. Under the proposed stipulation, API neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$50,000. 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. API must pay a civil penalty of \$50,000 no later than February 23, 2003, which is the 30th day after the date of this order. API must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and API's social security number or federal employer identification number must be included on the certified check or money order.
3. API must send the certified check or money order to:

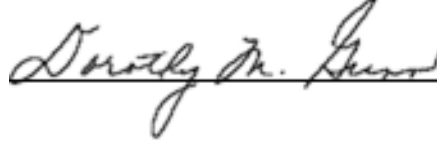
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. API must cease and desist from the alleged violations.

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) (2000); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 23, 2003, 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