



(3) by failing to pay construction permit fees to the Agency prior to construction of emission sources (count III); (4) by failing to file Annual Emission Reports (AERs) for the years 2001 and 2002 and failing to timely file AERs for the years 2003 through 2006 (count IV); (5) by failing to timely apply for a Clean Air Act Permit Program (CAAPP) permit and by operating a major stationary source without a CAAPP permit (count V); (6) by constructing a new major source or major modification to an emission source without first having applied for and obtained a construction permit from the Agency (count VI); (7) by failing to submit the required reports and maintain the required records for its polyester resin products manufacturing operation (count VII); and (8) by failing to (a) timely initiate data collection and demonstrate compliance as required, (b) keep required records, (c) submit required notices to the Agency, (d) submit semi-annual compliance reports to the Agency, and (e) keep copies of notifications and reports submitted to the Agency, records related to startup, shutdown, and malfunction, or records of performance tests, and design and performance evaluations (count VIII).

On February 1, 2011, the People and Seating Concepts 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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 *Sun-Times Media West* on February 22, 2011. 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) (2008); 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 Seating Concepts' 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) (2008)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Seating Concepts 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) (2008)), which may mitigate or aggravate the civil penalty amount. Seating Concepts agrees to pay a civil penalty of \$139,000. The People and Seating Concepts 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. Seating Concepts, Inc. (Seating Concepts) must pay a total civil penalty of \$139,000 no later than May 9, 2011, which is the first business day following the

30th day after the date of this order. Seating Concepts must pay \$40,200 by certified check or money order into the Environmental Permit and Inspection Fund. Seating Concepts must pay \$98,800 by certified check or money order, payable to the Environmental Protection Trust Fund. The case name, case number, and Seating Concept's federal tax identification number must appear on the face of any certified check or money order.

3. Seating Concepts must submit payment of the civil penalty, through first class mail, to:

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

Seating Concepts must send a copy of any certified check or money order and any transmittal letter to:

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) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
5. Seating Concepts must cease and desist from the alleged violations and 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) (2008); *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 Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on April 7, 2011, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

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John Therriault, Assistant Clerk  
Illinois Pollution Control Board