

ILLINOIS POLLUTION CONTROL BOARD

January 24, 2013

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 13-26
)	(Enforcement - Air)
BAG MAKERS, INC., an Illinois corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by T.A. Holbrook):

On December 14, 2012, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a seven-count complaint against Bag Makers, Inc. (Bag Makers). The complaint concerns Bag Makers' packaging printing plant located at 6606 S. Union Rd., Union, McHenry County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), 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 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that Bag Makers violated Sections 9(a), 9(b), 9.12(j), and 39.5(6)(b) of the Act (415 ILCS 5/9(a), 9(b), 9.12(j), 39.5(6)(b) (2010); Sections 201.142, 201.302(a), and 205.300 of the Board's air pollution regulations (35 Ill. Adm. Code 201.142, 201.302(a), 205.300); Sections 254.132(a) and 254.132(b) of air pollution regulations adopted by the Illinois Environmental Protection Agency (Agency) (35 Ill. Adm. Code 254.132(a), 254.132(b)); Condition 6b of its Bag Makers' December 20, 2007, Revised Federally Enforceable State Operating Permit (FESOP), Condition 6b of its construction permit, and Condition 6b of its April 27, 2009, Revised FESOP; and violated the Board order issued January 5, 2006, in *People v. Bag Makers, Inc.* (PCB 05-192) (Section VIII.B of Stipulation).

The People allege that Bag Makers committed these alleged violations by operating a Clean Air Act Permit Program (CAAPP) source without a CAAPP permit; violating conditions of its construction permit and revised FESOPs; modifying existing emission sources prior to obtaining a construction permit from the Agency; failing to timely pay air pollution construction permit fees; failing to completely and accurately report annual emissions from its silk screen printing presses in its Annual Emission Reports (AERs) from 2006 until December 15, 2011; failing to completely and accurately report seasonal allotment period emissions in its Seasonal Emission Reports (SERs) from 2006 until December 15, 2011; and by failing to timely renew its FESOP and obtain a construction permit for VOM usage and emission exceedances.

On December 14, 2012, simultaneously with the People's complaint, the People and Bag Makers 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) (2010)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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 *Northwest Herald* on December 26, 2012. 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) (2010); 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 Bag Makers' 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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Bag Makers 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) (2010)), which may mitigate or aggravate the civil penalty amount. Bag Makers agrees to pay a civil penalty of \$30,000.00. The People and Bag Makers 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. Bag Makers must pay a civil penalty of \$30,000.00 no later than Monday, February 25, 2013, which is the first business day following the 30th day after the date of this order. Bag Makers 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. Bag Makers must submit payment of the civil penalty to:

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

Bag Maker must send a copy of the certified check or money order and any transmittal letter to:

Jennifer A. Van Wie, Assistant Attorney General

Environmental Bureau
Illinois Attorney General's Office
69 W. Washington St., Suite 1800
Chicago, IL 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) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
5. Bag Makers must timely apply for and obtain all required permits for its facility, must comply with all terms and conditions of any permits it obtains for its facility, must timely pay all required permit fees, must timely and accurately submit all required reports to the Agency, and shall comply with all prior Board orders in which it was a party.

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) (2010); *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 T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on January 24, 2013, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board