

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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JUN 6 2003

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 MECALUX ILLINOIS, INC. a Delaware)
 corporation,)
)
 Respondent.)

No. PCB 03-227
(Enforcement)

NOTICE OF FILING

PLEASE TAKE NOTICE that we have today, June 6, 2003, filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies of our Complaint, a copy of which is attached herewith and served upon you.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

NOTIFICATION

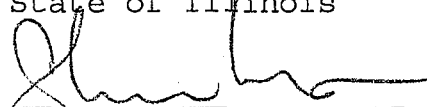
YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental facilities financing act [20 ILCS 3515/1 et seq.] to correct the alleged pollution.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General of the
State of Illinois

BY:


CHRISTOPHER GRANT
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Flr.
Chicago, IL 60601
(312) 814-5388

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STATE OF ILLINOIS
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PEOPLE OF THE STATE OF ILLINOIS,)
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 Complainant,)
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 vs.)
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 MECALUX ILLINOIS, INC. a Delaware)
 corporation,)
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 Respondent.)

No. PCB 03-222
(Enforcement)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of Respondent, MECALUX ILLINOIS, INC., as follows:

COUNT I
VIOLATION OF VOM STANDARDS

1. This Complaint is brought on behalf of THE PEOPLE OF THE STATE OF ILLINOIS by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2002).

2. Illinois EPA is an administrative agency of the State of Illinois, established by Section 4 of the Act, 415 ILCS 5/4 (2002), and is charged, *inter alia*, with the duty of enforcing the Act, and regulations promulgated by the Illinois Pollution Control Board ("Board").

3. At all times relevant to this complaint, Respondent MECALUX ILLINOIS, INC. ("Mecalux") was, and is, a Delaware

corporation, duly authorized to transact business in the State of Illinois.

4. Mecalux owns and operates a manufacturing facility located at 1600 North 25th Avenue, Melrose Park, Cook County, Illinois ("Facility" or "Site"). At its Facility, Mecalux manufactures and coats metal storage system components.

5. Mecalux' coating lines consist, inter alia, of a hydro-soluble process, consisting of degreasing and demineralization equipment and a paint spray booth ("Hydro-Soluble process"), and a catophoresis coating process, consisting of a catophoresis painting dip tank and an open top degreaser ("Catophoresis process"). Both the Hydro-Soluble process and the Catophoresis process emit volatile organic compounds ("VOC's") to the atmosphere inside and outside of the facility.

6. On or about November 21, 2000, Mecalux began construction of the Hydro-Soluble coating line. On or about December 4, 2000, Mecalux began construction of the Catophoresis coating process. Mecalux did not apply for and obtain construction or operation permits prior commencing construction of the two coating lines.

7. On August 14, 2001, the Illinois EPA issued a Construction and Operating permit ("Permit") for the two coating lines at Metalux' facility. A true and accurate copy of Respondent's Permit is attached hereto as 'Exhibit A'.

8. From approximately May 25, 2001 until a date better known to respondent, but no later than August 14, 2001, Mecalux used and applied coatings containing a VOC content in excess of

2.8 pounds per gallon ("noncomplying coatings") in the Hydro-Soluble coating process at the facility. The noncomplying coatings were used to coat the metal storage system components produced at the Facility.

9. During the period from May 25, 2001 until August 14, 2001, Respondent applied approximately 537 gallons of noncomplying coatings to various metal parts at its facility.

10. Section 9(a) of the Act, 415 ILCS 5/9(a) (2002) provides, as follows:

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

11. Section 3.26 of the Act, 415 ILCS 5/3.26 (2002), provides, as follows:

"PERSON" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

12. The Respondent, a Delaware corporation, is a "person" as that term is defined in Section 3.26 of the Act, 415 ILCS 5/3.26 (2002).

13. Pursuant to authority granted under the Act, the Board has promulgated regulations governing the discharge of contaminants into the air, codified at 35 Ill. Adm. Code Subtitle B ("Board Air Pollution regulations").

14. Section 201.141 of the Board Air Pollution regulations, 35 Ill. Adm. Code 201.141 provides, as follows:

No person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any state so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to violate the provisions of this Chapter, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

15. Part 218 of Subtitle C of the Board Air Pollution regulations, titled "Organic Material Emission Standards and Limitation for the Chicago Area" regulates the VOM content of Coatings used at the Respondent's facility. Respondent's coating operations are regulated under the category of "Miscellaneous Metal Parts and Products"

16. Section 218.204 of the Board Air Pollution regulations, 35 Ill. Adm. Code 218.204, provides, in pertinent part, as follows:

Except as provided in Sections 218.205, 218.207, 218.208 and 218.216 of this Subpart, no owner or operator of a coating line shall apply at any time any coating in which the VOM content exceeds the following emission limitations for the specified coating. Except as provided in Section 218.204(1), compliance with the emission imitations marked with an asterisk in this Section is required and after March 15, 1996 and compliance with emission limitations not marked with an asterisk is required until March 15, 1996...[t]he emission limitations are as follows:

* * *

j) Miscellaneous Metal Parts and Products Coating

* * *

4) All other coatings

kg/l

lbs/gal

17. Between May 25, 2001 and August 14, 2001, the Respondent applied at least 537 gallons of a coating which exceeded the applicable VOM limitation. Respondent has therefore violated Sections 218.204 and 201.141 of the Board Air Pollution regulations, 35 Ill. Adm. Code Sections 218.204 and 201.141, and thereby also violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondent, MECALUX ILLINOIS, INC., on Count I:

1. Authorizing a hearing in this matter, at which time the Respondent will be required to answer the allegations herein;

2. Finding that Respondent has violated Section 9(a) of the Act and 35 Ill. Adm. Code Sections 218.204 and 201.141;

3. Ordering the Respondent to cease and desist from any further violation of Section 9(a) of the Act and 35 Ill. Adm. Code Sections 218.204 and 201.141;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering the Respondent to pay all costs, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT II
CONSTRUCTION WITHOUT A PERMIT

1-10. Complainant realleges and incorporates by reference herein paragraphs 1 through 7 and paragraphs 11 through 13 of Count I as paragraphs 1 through 10 of this Count II.

11. Section 9 of the Act, 415 ILCS 5/9 (2002), provides, in pertinent part, as follows:

No person shall:

* * *

(b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or contributing to air pollution or designed to prevent air pollution of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

12. Section 201.142 of the Board Air Pollution regulations, 35 Ill. Adm. Code 201.142, provides, as follows:

No person shall cause or allow the construction of any new emission source or any new air pollution control equipment, without first obtaining a construction permit from the Agency, except as provided in Section 201.146.

13. Section 3.06 of the Act, 415 ILCS 5/3.06 (2002), provides, as follows:

"CONTAMINANT" is any solid, liquid, gaseous matter, any odor, or any form of energy, from whatever source.

14. The VOM emitted from the two coating lines at

Respondent's facility, is a "contaminant", as that term is defined in Section 3.06 of the Act, 415 ILCS 5/3.06 (2002).

15. Section 201.102 of the Board Air Pollution regulations, 35 Ill. Adm. Code 201.102, provides, in pertinent part, as follows:

"Emission Source": any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.

"New Emission Source": any emission source, the construction or modification of which is commenced on or after April 14, 1972.

16. Respondents coating lines are "emission source[s]" and "new emission source[s]" as those terms are defined in 35 Ill. Adm. 201.102.

17. Section 3.02 of the Act, 415 ILCS 5/3.02 (2002), contains the following definition:

"AIR POLLUTION" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

18. Respondent's two coating lines emit or are capable of emitting VOM, a contaminant injurious to human health, to the atmosphere, and therefore are capable of causing or contributing to air pollution.

19. On or about November 21, 2000 and December 4, 2000, the Respondent commenced construction of, respectively, the Hydro-Soluble line and the Cataphoresis coating line, without first

having applied for or obtained construction permits from Illinois EPA.

20. By commencing construction of the two coating lines, Respondent caused or allowed the construction of two new emission sources without first having applied for or obtained a permit from Illinois EPA. Respondent therefore violated Section 9(b) of the Act, 415 ILCS 5/9(b) (2002), and Section 201.142 of the Board Air Pollution regulations, 35 Ill. Adm. Code 201.142.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondent, MECALUX ILLINOIS, INC., on Count II:

1. Authorizing a hearing in this matter, at which time the Respondent will be required to answer the allegations herein;

2. Finding that the Respondent has violated Section 9(b) of the Act and 35 Ill. Adm. Code 201.142;

3. Ordering the Respondent to cease and desist from any further violation of Section 9(b) of the Act and 35 Ill. Adm. Code 201.142;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and pertinent regulations, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering the Respondent to pay all costs, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

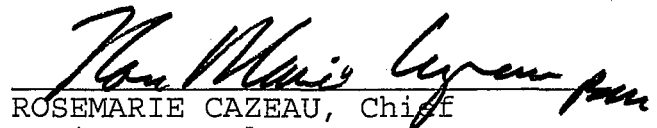
6. Granting such other relief as the Board deems

appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS
ex rel. LISA MADIGAN
Attorney General
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY:

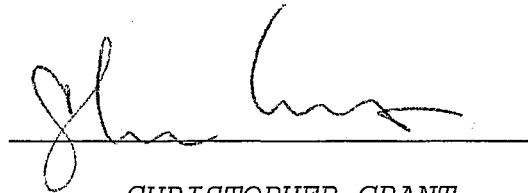

ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL:

CHRISTOPHER J. GRANT
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Flr
Chicago, Illinois 60601
(312) 814-5388

CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 6d day of June, 2003, the foregoing Complaint and Notice of Filing upon person listed below, by first class mail, by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago Illinois and addressed to:

A handwritten signature in cursive script, appearing to read 'Christopher Grant', is written over a horizontal line.

CHRISTOPHER GRANT

Service List:

Mr. Richard Saines
Baker & McKenzie
130 E. Randolph
Suite 3500
Chicago, IL 60601