

ILLINOIS POLLUTION CONTROL BOARD
June 5, 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 02-56
)	(Enforcement - Water)
CHIQUITA PROCESSED FOODS, L.L.C.,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On November 9, 2001, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Chiquita Processed Foods, L.L.C. (Chiquita Processed Foods). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that Chiquita Processed Foods violated Sections 12(a), (d) and (f) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), (d), and (f) (2002)) and 35 Ill. Adm. Code 302.203, 302.204, 302.206, 304.106, and 304.141(a). The People further allege that Chiquita Processed Foods violated these provisions by releasing pumpkin processing waste to Prince Run Creek in Peoria County. The complaint concerns Chiquita Processed Foods' vegetable processing facility in Princeville, Peoria County.

On April 22, 2003, the People and Chiquita Processed Foods 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 from hearing. The Board published newspaper notice in the *Peoria Journal Star* on April 28, 2003. 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).

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 Chiquita Processed Foods' 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) (2000)). The People and Chiquita Processed Foods have satisfied Section 103.302. Chiquita Processed Foods neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$105,000. Chiquita Processed Foods further agrees to pay \$8,234.76 for the fish killed and investigative expenses. The Board accepts the stipulation and proposed settlement.

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

ORDER

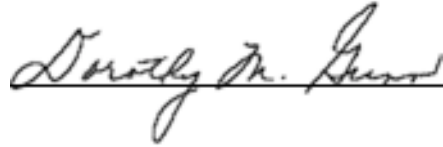
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Chiquita Processed Foods must pay a civil penalty of \$105,000 no later than July 7, 2003, which is the first business day following the 30th day after the date of this order. Chiquita Processed Foods must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Chiquita Processed Foods' federal employer identification number must be included on the certified check or money order.
3. Chiquita Processed Foods must pay a civil penalty of \$8,234.76 no later than July 7, 2003, which is the first business day following the 30th day after the date of this order. Chiquita Processed Foods must pay the civil penalty by certified check or money order, payable to the State of Illinois Wildlife and Fish Fund. The case number, case name, and Chiquita Processed Foods' federal employer identification number must be included on the certified check or money order.
4. Chiquita Processed Foods must send the certified checks or money orders to:

Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
5. 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)).
6. Chiquita Processed Foods 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) (2002); *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 June 5, 2003 by a vote of 6-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board