

ILLINOIS POLLUTION CONTROL BOARD  
January 8, 2004

|                                  |   |                       |
|----------------------------------|---|-----------------------|
| PEOPLE OF THE STATE OF ILLINOIS, | ) |                       |
|                                  | ) |                       |
| Complainant,                     | ) |                       |
|                                  | ) |                       |
| v.                               | ) | PCB 03-20             |
|                                  | ) | (Enforcement - Water) |
| ACME REFINING SCRAP IRON AND     | ) |                       |
| METAL COMPANY,                   | ) |                       |
|                                  | ) |                       |
| Respondent.                      | ) |                       |

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

On August 22, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Acme Refining Scrap Iron and Metal Company (Acme). See 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that Acme violated Section 12(a) and 12(f) of the Environmental Protection Act (Act) (415 ILCS 12(a) and (f) (2002)) and Sections 302.203 and 309.102(a) of the Board regulations (35 Ill. Adm. Code 302.203 and 309.102(a)). The People further allege that Acme violated these provisions by causing water pollution from discharge of runoff containing metal shavings into ditches connected to the North Branch of the Chicago River and by failing to obtain a National Pollutant Discharge Elimination System permit for the runoff. The complaint concerns Acme's scrap metal storage facility at 1409 Rockland Road, Lake Bluff, Lake County.

On November 4, 2003, the People and Acme 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 *News-Sun* on December 13, 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 Acme'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 Acme have satisfied Section 103.302. Acme neither admits nor denies the alleged violation(s) and agrees to pay a civil penalty of \$21,000. 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. Acme Refining Scrap Iron and Metal Company (Acme) must pay a civil penalty of \$21,000 no later than February 7, 2004, which is the 30th day after the date of this order. Acme must pay the civil penalty by certified check or money order, payable to the Agency for deposit into the Environmental Protection Trust Fund. The case number, case name, and Acme's federal employer identification number (36-3060875) must be included on the certified check or money order.
3. Acme 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

A copy of the certified check or money order and transmittal letter must be sent to:

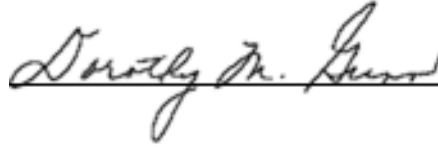
Mitchell L. Cohen  
Assistant Attorney General  
Environmental Bureau  
188 West Randolph, Suite 2001  
Chicago, Illinois 60601

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. Acme 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 January 8, 2004, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board