

ILLINOIS POLLUTION CONTROL BOARD
January 22, 2004

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 03-14
) (RCRA Enforcement)
 RIBA-FAIRFIELD, INC., a Delaware)
 corporation,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by A.S. Moore):

On August 12, 2002, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Riba-Fairfield, Inc. (Riba-Fairfield) alleging hazardous waste violations, and subsequently filed an amended complaint. The amended complaint concerns Riba-Fairfield's fragrance and food flavoring manufacturing facility at 3210 Parkway Drive in Decatur, Macon County. The parties now seek to settle. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2002)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. See 415 ILCS 5/31 (2002); 35 Ill. Adm. Code 103. In this case, the People allege that Riba-Fairfield violated numerous provisions of the Act (415 ILCS 5/21(d), (f) (2002)) and Board hazardous waste regulations (35 Ill. Adm. Code 703.121(a), (b), 725.113(b), 725.115, 725.125, 725.173, 725.212(a), (b), 725.242(a), 725.243, 725.274) by improperly managing hazardous waste, including storing hazardous waste without a Resource Conservation and Recovery Act (RCRA) permit, failing to inspect containers, failing to have a written closure plan, and failing to establish financial assurance.

On October 31, 2003, the People and Riba-Fairfield 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)), 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 *Decatur Herald & Review* 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. *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 Riba-Fairfield'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)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The People and Riba-Fairfield have satisfied Section 103.302. Riba-Fairfield does not admit the alleged violations and agrees to pay a civil penalty of \$5,000. 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. Riba-Fairfield must pay a civil penalty of \$5,000 no later than February 23, 2004, which is first business day following the 30th day after the date of this order. Riba-Fairfield must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund. The case number, case name, and Riba-Fairfield's federal employer identification number must be included on the certified check or money order.
3. Riba-Fairfield must send the certified check or money order to:

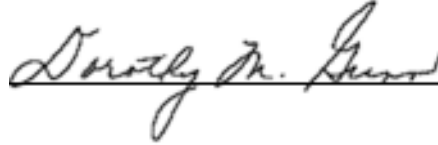
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. Riba-Fairfield 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 22, 2004, by a vote of 5-0.

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

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board