

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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MAR 12 2004

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
LEHIGH PRESS, INC., a Pennsylvania)
corporation, a/k/a LEHIGH PRESS-)
CADILLAC, LEHIGH CADILLAC-DIRECT,)
LEHIGH DIGITAL AND LEHIGH DIRECT,)
)
Respondent.)

No. PCB 03-220

NOTICE OF FILING

TO: Mr. Joseph A. Strubbe
Vedder, Price, Kaufman
& Kammholz
222 North LaSalle Street
Chicago, Illinois 60601

Bradley P. Halloran
Hearing Officer
Illinois Pollution Control
Board, Suite 11-500
James R. Thompson Center
100 W. Randolph Street
Chicago, Illinois 60601

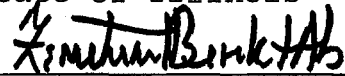
PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies of the Stipulation and Proposal for Settlement, an Agreed Motion for Relief from the Hearing Requirement, Notice of Filing and a Certificate of Service, a copy of which is attached herewith and served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

BY:


ZEMEHERET BEREKET-AB
Assistant Attorney General
Environmental Bureau
188 W. Randolph St., 20th Flr.
Chicago, IL 60601
(312) 814-3816

DATE: MARCH 12, 2004

THIS FILING IS SUBMITTED ON RECYCLED PAPER

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Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
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)
Respondent.)

No. PCB 03-220
(Enforcement - Air)

AGREED MOTION TO REQUEST RELIEF FROM THE HEARING REQUIREMENT

In support of this Motion, the parties state as follows:

1. Today, the People of the State of Illinois, filed a Stipulation and Proposal for Settlement, with the Illinois Pollution Control Board.

2. Section 31(c)(2) of the Illinois Environmental Protection Act, ("Act"), 415 ILCS 5/31(c)(2)(2002) provides:

Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a request for relief from the requirement of a hearing pursuant to subdivision (1)

3. Complainant and Respondent agree that a formal hearing is not necessary to conclude this matter and wish to avail themselves of Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2)(2002).

WHEREFORE, Complainant and Respondent request relief from the hearing requirement pursuant to Section 31(c)(2) of the Act.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

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

ROSEMARIE CAZEAU, Chief
Environmental Bureau

BY:

Zemeheret Bereket-AB
ZEMEHERET BEREKET-AB
Assistant Attorney General
Environmental Bureau
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PEOPLE OF THE STATE OF ILLINOIS,)
LISA MADIGAN, Attorney General)
of the State of Illinois,)

STATE OF ILLINOIS
Pollution Control Board

Complainant,)

v.)

No. PCB 03-220
(Enforcement-Air)

LEHIGH PRESS, INC., a Pennsylvania)
corporation, a/k/a LEHIGH PRESS-)
CADILLAC, LEHIGH CADILLAC-DIRECT,)
LEHIGH DIGITAL AND LEHIGH DIRECT,)

Respondent.)

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, 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"), and Respondent, LEHIGH PRESS, INC. ("Lehigh" and collectively "Parties"), do hereby agree to this Stipulation and Proposal for Settlement ("Stipulation"). The Parties agree that the Statement of Facts contained herein represents a fair summary of the allegations and testimony which would be introduced by the Parties if a full hearing were held. The Parties further stipulate that this Statement of Facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in this or any other proceeding except to enforce the terms of this Stipulation. Notwithstanding the previous

sentence, this Stipulation and any Illinois Pollution Control Board ("Board") order accepting same may be used in any future enforcement action as evidence of a past adjudication of violation of the Illinois Environmental Protection Act ("Act") for purposes of Section 39(i) and 42(h) of the Act, 415 ILCS 39(i) and 5/42(h) (2002). This Stipulation shall be null and void unless the Board approves and disposes of this matter on each and every one of the terms and conditions of the settlement set forth herein.

I.

JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Act, 415 ILCS 5/1 et seq (2002).

II.

AUTHORIZATION

The undersigned representative for each party certifies that he/she is fully authorized by the party whom he/she represents to enter into the terms and conditions of this Stipulation and to legally bind the party to it.

III.

APPLICABILITY

This Stipulation shall apply to and be binding upon the Complainant and Respondent, and any officer, director, or agent,

of Respondent, as well as Respondent's successors and assigns. Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of its officers, directors, agents, servants or employees to take such action as shall be required to comply with the provisions of this Stipulation.

IV.

STATEMENT OF FACTS

A. Parties

1. The Attorney General of the State of Illinois brings this action on her own motion, as well as at the request of the Illinois EPA, pursuant to the terms and provisions of Section 31 of the Act, 415 ILCS 5/31 (2002).

2. The Illinois EPA is an administrative agency established in the executive branch of the state government by Section 4 of the Act, 415 ILCS 5/4 (2002), and is charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent, Lehigh Press, Inc. ("Lehigh") is a Pennsylvania corporation, authorized to do business in the State of Illinois.

B. Facility Description

1. The Facility which is the subject matter of the Complaint filed herein is a commercial printing facility located at 25th and Lexington Avenue, Broadview, Cook County, Illinois

("Facility"). At all times relevant to the Complaint, Lehigh owns and operates the Facility.

2. At the Facility, Lehigh operates eight emission units which consist of heatset web offset lithographic printing presses with dryers.

C. Alleged Violations

1. The Complaint filed in this matter on May 29, 2003, before the Illinois Pollution Control Board alleges the following violations of the Act, 415 ILCS 5/1 et seq. (2002), Illinois Pollution Control Board ("Board") Air Pollution Regulations, 35 Ill. Adm. Code, and CAAPP permit conditions and are outlined as follows:

COUNT I CAUSING OR ALLOWING AIR POLLUTION: Violation of Sections 9(a) and 39.5(6)(a) of the Act, 415 ILCS 5/9(a) and 39.5(6)(a)(2002), and 35 Ill. Adm. Code 218.407(a)(1)(c), and permit conditions;

COUNT II FAILURE TO INSTALL RECORDING DEVICES AND FAILURE TO COLLECT MONITORING DATA: Violation of Sections 9(b) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b) and 39.5(6)(a)(2002), and 35 Ill. Adm. Code 218.410(c)(2), and 218.411(b)(3) and permit conditions;

COUNT III FAILURE TO REPORT TO THE ILLINOIS EPA NONCOMPLIANCE WITH PERMIT CONDITIONS: Violation of Sections 9(b) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b) and 39.5(6)(a)(2002), and Condition 5.7.1 of CAAPP Permit No. 95100080;

COUNT IV FAILURE TO SUBMIT COMPLETED SEMI-ANNUAL REPORTS AND ANNUAL COMPLIANCE CERTIFICATIONS: Violation of Sections 9(b) and 39.5(6)(a) of the Act, 415 ILCS 5/9(b) and 39.5(6)(a)(2002), and Conditions 8.6.1 and 9.8(a) of CAAPP Permit No. 95100080;

COUNT V CONDUCTING EMISSION TESTING WITHOUT NOTIFYING THE ILLINOIS EPA: Violation of Sections 9(b) and 39.5(6) (a) of the Act, 415 ILCS 5/9(b) and 39.5(6) (a) (2002) .

D. Admission of Violation

Respondent denies the violations alleged in the Complaint in this matter and referenced in Section IV.C. herein.

V.

IMPACT ON THE PUBLIC RESULTING FROM NONCOMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c) (2002), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Complainant states as follows:

1. Complainant maintains that causing, threatening or allowing the release of VOM, air contaminants, from respondent's Facility into the environment, contributes to the degradation of the air quality of the State of Illinois, thereby interfering with the protection of the public health, general welfare and physical property of the people.

2. Complainant states that Respondent's commercial printing Facility has social and economic value.

3. Complainant states that it does not have sufficient data to make a determination about the suitability or unsuitability of the commercial printing Facility to the area in which it is located.

4. Complainant states that complying with the requirements of the Act, Board Air Pollution Regulations and CAAPP permit condition, [§] was both technically practicable and economically reasonable.

5. Currently, Respondent is in compliance.

VI.

CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h) (2002), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is

authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the violator in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the violator because of delay in compliance with requirements;
4. the amount of monetary penalty which will serve to deter further violations by the violator and to otherwise aid in enhancing voluntary compliance with this Act by the violator and other persons similarly subject to the Act; and
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the violator.

In response to these factors, the Complainant states as follows:

1. For at least four years and two months, Lehigh operated press #34 out of compliance with its CAAPP permit. Lehigh failed to timely conduct a performance test for press #47. For a period of at least four years and two months, Lehigh submitted incomplete reports and kept incomplete records.

2. Lehigh attempted to repair and replace the defective chart recorder on press #34. Nonetheless, press #34 was operated for a period of four years and two months without the required recording device. Due to Lehigh's problems demonstrating compliance with press #34, press #34 was removed from operation

in July 2002. Further, Lehigh has overhauled press #34, replacing the existing dryer with a newer, more efficient dryer. The new dryer is ducted to the large afterburner located at the Facility. Lehigh expects VOM emissions from the overhauled press #34 to be reduced by about two (2) tons per year.

3. Economic benefits accrued by the Respondent are believed to be substantially less than the \$30,000.00 penalty agreed to herein. The violations alleged in the Complaint stem from Respondent's failure to monitor, test, keep records and file timely reports. Usually, such violations do not result in excessive avoidance of expenses.

4. Complainant has determined in this instance, that a civil penalty of Thirty Thousand Dollars (\$30,000.00) will serve to deter further violations of the Act, Board Air Pollution regulations and CAAPP permit conditions and aid in future voluntary compliance with the Act, Board regulations and CAAPP permit conditions.

5. Complainant has no records of previously adjudicated violations against Lehigh.

VII.

TERMS OF SETTLEMENT

A. Civil Penalty

1. Respondent shall pay a civil penalty of Thirty Thousand Dollars (\$30,000.00) into the Illinois Environmental Protection

Trust Fund within Thirty (30) days after the date on which the Board adopts a final order approving this Stipulation and Proposal for Settlement.

2. Payment shall be made by certified check or money order, payable to the Illinois EPA, designated for deposit into the Environmental Protection Trust Fund, and shall be sent by first class mail to:

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

Further, a copy of the check or money order shall be sent by first-class mail to:

Zemeheret Bereket-Ab
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, IL 60601

3. Respondent's Federal Employer Identification Number ("FEIN") is 23-1417330. The FEIN number shall appear on the face of the certified check or money order.

4. For purposes of payment and collection Respondent may be reached at the following address:

Damon Snyder
Lehigh Press, Inc.
1900 South 25th Avenue
Broadview, Illinois 60155

5. For purposes of payment and collection Respondent's attorney may be reached at the following address:

Joe A. Strubbe
Vedder Price
222 North LaSalle Street
Chicago, Illinois 60601

6. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2002), interest shall accrue on any amount not paid within the time prescribed herein, at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003(a) (2002).

- a. Interest on unpaid amounts shall begin to accrue from the date the penalty payment is due and continue to accrue to the date payment is received.
- b. Where partial payment is made on any payment amount that is due, such partial payment shall be first applied to any interest on unpaid amounts then owing.
- c. All interest on amounts owed the Complainant, shall be paid by certified check payable to the Illinois Environmental Protection Agency for deposit in the Environmental Protection Trust Fund and delivered in the same manner as described in this Section VII.A.2.

VIII.

CEASE AND DESIST

Respondent shall cease and desist from future violations of the Act, Board regulations, and CAAPP permit conditions, including but not limited to, those Sections of the Act and Board regulations that were the subject matter of the complaint as outlined in Section IV.C of this Stipulation.

IX.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation in no way affects the Respondent's responsibility to comply with any federal, State or local regulations, including but not limited to the Act and Board regulations.

X.

RELEASE FROM LIABILITY

In consideration of Respondent's payment of Thirty Thousand Dollars (\$30,000.00) civil penalty, its commitment to refrain from future violations of the Act, Board Air Pollution regulations, and CAAPP permit conditions, Complainant releases, waives and discharges Respondent from any further liability or penalties for violations of the Act, Board Air Pollution regulations and CAAPP permit conditions which were the subject matter of the complaint filed in this matter on May 29, 2003, and upon the payment of all monies owed. However, nothing in this

Stipulation and Proposal for Settlement shall be construed as a waiver by Complainant of the right to redress future violations or obtain penalties with respect thereto.

WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

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AGREED:

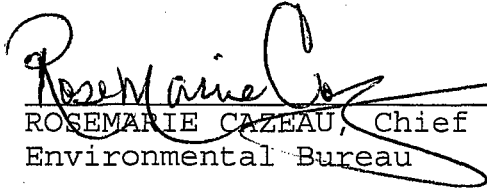
FOR THE COMPLAINANT:

LISA MADIGAN
Attorney General of the
State of Illinois

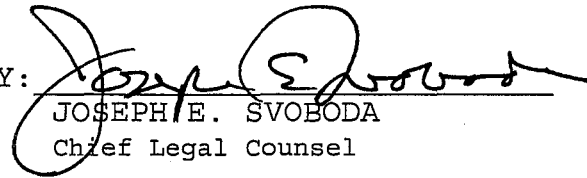
MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY:


ROSEMARIE CAZEAU, Chief
Environmental Bureau

BY:


JOSEPH E. SVOBODA
Chief Legal Counsel

DATED:

3/3/04

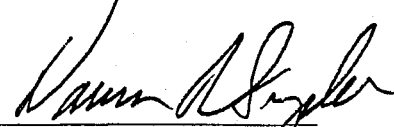
DATED:

3/1/04

FOR THE RESPONDENT:

LEHIGH PRESS, INC.,
a Pennsylvania corporation,

BY:



TITLE:

SR VP Operations

FEIN # 23-1417330

DATED:

3/9/04

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CERTIFICATE OF SERVICE

I, ZEMEHERET BEREKET-AB, an Assistant Attorney General, do certify that I caused to be served on this 12th day of March, 2004, the foregoing Notice of Filing, a Stipulation and Proposal for Settlement, and an Agreed Motion for Relief from the Hearing Requirement, upon the persons listed on said Notice by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois.



ZEMEHERET BEREKET-AB