

Northlake Herald-Journal, Oak Leaves, River Grove Messenger, Westchester Herald, and West Proviso Herald on February 16, 2005. 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 Werner'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 Werner have satisfied Section 103.302.

The stipulation and proposed settlement also address the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2002), *as amended by* P.A. 93-575, (eff. Jan. 1, 2004), which may mitigate or aggravate the civil penalty amount. Werner does not admit the alleged violations but agrees to pay a civil penalty of \$32,000 and to operate and maintain all equipment and systems relating to a Supplemental Environmental Project (SEP) at its Franklin Park facility. The SEP, according to the stipulation and proposed settlement, consists of the conversion of an open bath pultrusion machine to a pre-form resin injection machine. The parties state that Werner began implementing the SEP in 2001, and the capital cost of the SEP was approximately \$139,000. The parties stipulate that Werner did not accrue an appreciable measure of economic benefit by operating emission sources without achieving the required control. The proposed settlement states that the People believe an \$85,000 civil penalty would be appropriate based on various Section 42(h) factors, but that the People have agreed to mitigate that amount by approximately 62% to \$32,000 based on the SEP. 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. Werner must pay a civil penalty of \$32,000 no later than April 18, 2005, which is the first business day following the 30th day after the date of this order. Werner 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 Werner's federal employer identification number must be included on the certified check or money order.
3. Werner must send the certified check or money order by first class mail to:

Illinois Environmental Protection Agency
Fiscal Services Division

1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Werner must send a copy of the certified check or money order to:

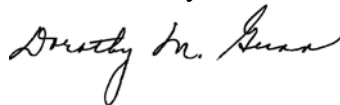
Christopher P. Perzan
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4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. Werner must cease and desist from future violations of the Act and Board air pollution control regulations.

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 March 17, 2005, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board