

ILLINOIS POLLUTION CONTROL BOARD
December 18, 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 02-63
)	(Enforcement - Air)
MII, INC., a Delaware corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

On December 3, 2001, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against MII, Inc. (MII). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that MII violated Sections 9(a) and (b) and 9.1(d) of the Environmental Protection Act (Act) (415 ILCS 5/9(a) and (b) and 9.1(d) (2002)) and various provisions of federal law that are enforceable under Section 9.1(d) of the Act. 415 ILCS 5/9.1(d) (2002). The People further allege that MII violated these provisions by causing, threatening, or allowing excess emissions of volatile organic material, by constructing and operating an emissions source without first obtaining a permit, and by violating various conditions of its emission permit. The complaint concerns MII's shelving fabrication facility at 500 Capital Way, Jacksonville, Morgan County.

On September 30, 2003, the People and MII 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 *Jacksonville Journal-Courier* on October 4, 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 MII'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 MII have satisfied Section 103.302. MII denies the alleged violations, except for the alleged record-keeping violations, which MII admits. MII agrees to pay a civil penalty of \$50,000. The Board accepts the stipulation and proposed settlement.

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

ORDER

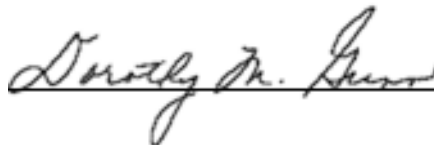
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. MII must pay a civil penalty of \$50,000 no later than January 17, 2004, which is the 30th day after the date of this order. MII must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and MII's federal employer identification number must be included on the certified check or money order.
3. MII 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. MII 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 December 18, 2003, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board