

ILLINOIS POLLUTION CONTROL BOARD

September 2, 2004

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 01-1
)	(Enforcement - Air)
METALS TECHNOLOGY CORPORATION,)	
)	
Respondent.)	

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

On July 3, 2000, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a six-count complaint against Metals Technology Corporation (MTC). See 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that MTC violated Sections 9(b), 9.1(d), 9.8(b), 39.5(6)(b) of the Environmental Protection Act (Act) and Sections 201.142, 201.143, 203.201, 270.301, and 205.310 of the Board's air pollution regulations. 415 ILCS 5/9(b), 9.1(d), 9.8(b), 39.5(6)(b) (2002); 35 Ill. Adm. Code 201.142, 201.143, 203.201, 270.301, and 205.310. The People further allege that MTC violated these provisions by failing to obtain construction and operating permits for a new air pollution emission source; failing to obtain a construction permit for a major stationary source of a hazardous air pollutant located in a severe ozone nonattainment area; failing to timely submit a Clean Air Act Permit Program (CAAPP) application; failing to timely submit an Emission Reduction Market System (ERMS) application; and failing to demonstrate compliance with the National Emission Standard for Hazardous Air Pollutants applicable to halogenated solvent cleaning. The complaint concerns MTC's metal treating facility located at 120 North Shmale Road, Carol Stream, DuPage County.

On July 30, 2004, the People and MTC 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. The newspaper notice was published in *Liberty Suburban Chicago Newspapers* on August 5, 2004. 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 MTC'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 MTC have satisfied Section 103.302.

Under the proposed stipulation, the MTC neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$50,000. In addition, MTC agrees to pay the avoided permit fees, totaling \$3,000. Finally, the stipulation provides that MTC will undertake a supplemental environmental project (SEP). The SEP requires MTC to ship metal parts to an outside vendor for cleaning with an aqueous solution not involving any solvent or volatile organic compound emissions into the atmosphere. The same cleaning process may be performed by MTC at its facility so long as the cost is not less than that MTC currently spends annually.

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. Metals Technology Corporation (MTC) must pay a civil penalty of \$50,000. MTC must pay an initial payment of \$25,000 no later than October 2, 2004, which is the 30th day after the date of this order. MTC must pay a final payment of \$25,000 within 12 months after the date the Board adopts a final opinion and order approving this stipulation. MTC must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and MTC's social security number or federal employer identification number must be included on the certified check or money order.
3. MTC must pay avoided permit fees in the amount of \$3,000. MTC must pay the fees no later than November 1, 2004, which is the 60th day after the date of this order. MTC must pay the fees by certified check or money order, payable to the CAAPP 091 Fund.
4. MTC must send the certified checks or money orders to:

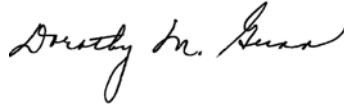
Illinois Environmental Protection Agency
 Fiscal Services Division
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, Illinois 62794-9276
5. MTC must undertake and complete a supplemental environmental project as set forth in paragraph VII (7) of the stipulation and proposed settlement.
6. Penalties 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)).

7. MTC 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) (2000); *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 September 2, 2004, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board