

ILLINOIS POLLUTION CONTROL BOARD
August 18, 2005

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 v.) PCB 05-148
) (Enforcement - Air)
CONCRETE SPECIALTIES COMPANY, an)
Illinois corporation,)
)
 Respondent.)

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

On February 1, 2005, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Concrete Specialties Company. See 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns Concrete Specialties Company's concrete product manufacturing facility at 1375 Gilford Road, Elgin, Cook 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 5/1 et seq. (2004)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. See 415 ILCS 5/31 (2004); 35 Ill. Adm. Code 103. In this case, the People allege that Concrete Specialties Company violated Sections 9(a) and (b) and 39.5(6)(b) of the Act (415 ILCS 5/9(a) and (b) and 39.5(6)(b) (2004)) and 35 Ill. Adm. Code 201.142, 201.143, 201.302(a), 203.201, and 254.132(a) by (1) constructing emissions sources without a permit; (2) operating emissions sources without a permit; (3) operating a major stationary source without a Clean Air Act Permit Program (CAAPP) permit; (4) violating New Source Review requirements; and (5) failing to timely submit complete and accurate annual emissions reports.

On July 1, 2005, the People and Concrete Specialties Company 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) (2004)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)), 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 from hearing. The Board published newspaper notice in the *Courier News* on July 22, 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) (2004); 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 Concrete Specialties Company'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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

Concrete Specialties Company neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount. Concrete Specialties Company agrees to pay a civil penalty of \$32,500, which the parties stipulate is at least as great as Concrete Specialties Company's economic benefit from delayed compliance, if any.

The People and Concrete Specialties Company have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement. This docket is now closed.

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. Concrete Specialties Company must pay a civil penalty of \$32,500 no later than September 19, 2005, which is the first business day after the 30th day after the date of this order. Concrete Specialties Company must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Environmental Protection Trust Fund. The case number, case name, and Concrete Specialties Company's social security number or federal employer identification number must be included on the certified check or money order.
3. Concrete Specialties Company must send the certified check, money order, or electronic funds transfer to the following person at the indicated address:

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

4. Concrete Specialties Company must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following persons at the indicated addresses:

Mitchell L. Cohen, Assistant Attorney General
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, Illinois 60601

and

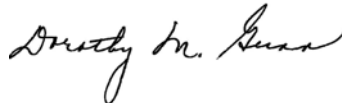
Maureen Wozniak, Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
6. Concrete Specialties Company 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) (2004); *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 August 18, 2005, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board