

ILLINOIS POLLUTION CONTROL BOARD

January 5, 2006

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 05-192
)	(Enforcement - Air)
BAG MAKERS, INC., an Illinois corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On April 29, 2005, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Bag Makers, Inc. (Bag Makers). *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns Bag Makers' flexographic printing facility at 6606 South Union Road, Union, McHenry 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 Bag Makers violated Section 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, 218.404(b), 254.132(a), and 254.137(a) by (1) constructing air emission sources without a permit; (2) failing to obtain operating permits for new air emission sources; (3) failing to obtain a Clean Air Act Permit Program permit; (4) failing to comply with New Source Review requirements; (5) failing to timely submit annual emissions reports; and (6) violating flexographic printing rules and failing to maintain records.

On November 16, 2005, the People and Bag Makers 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 *Northwest Herald* on November 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 Bag Makers'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.

Bag Makers 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. Bag Makers has tendered to its attorney of record a civil penalty of \$62,700. One portion of the penalty, \$62,000, is payable to the Environmental Protection Trust Fund, and the second portion, \$700, is payable to the Illinois Environmental Permit and Inspection Fund.

The People and Bag Makers 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. Bag Makers, through its attorney of record, must pay a civil penalty of \$62,000 no later than February 6, 2006, which is the first business day after the 30th day after the date of this order. Bag Makers 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 Bag Makers' federal employer identification number must be included on the certified check or money order.
3. Bag Makers, through its attorney of record, must pay a civil penalty of \$700 no later than February 6, 2006, which is the first business day after the 30th day after the date of this order. Bag Makers must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Environmental Permit and Inspection Fund. The case number, case name, and Bag Makers' federal employer identification number must be included on the certified check or money order.
4. Bag Makers, through its attorney of record, must send the certified checks, money orders, or electronic funds transfers 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

5. Counsel for Bag Makers must send a copy of the certified checks, money orders, or record of electronic funds transfers and any transmittal letters to the following persons at the indicated addresses:

Jennifer A. Tomas, Assistant Attorney General
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, Illinois 60601

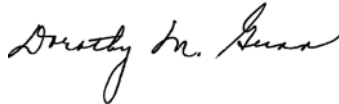
Maureen Wozniak, Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

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. Bag Makers 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 January 5, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board