

ILLINOIS POLLUTION CONTROL BOARD

August 4, 2006

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 05-181
)	(Enforcement – Air)
PATTISON ASSOCIATES LLC, an Illinois)	
limited liability company, and)	
5701 SOUTH CALUMET LLC, an Illinois)	
limited liability company,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On April 4, 2005, the People of the State of Illinois (People) filed a five-count air pollution complaint against respondents Pattison Associates LLC and 5701 South Calumet LLC (collectively, respondents). The complaint concerns renovation activities conducted by Pattison at an apartment complex owned by 5701 South Calumet in Chicago, Cook County.

In the complaint, the People allege that the respondents violated Section 9(a) and 9.1(d)(1) of the Environmental Protection Act (Act) (415 ILCS 5/9(a) and 9.1(d)(1) (2004)); 40 C.F.R. 61.145(a), (b)(1), (c)(1), (c)(3), (c)(6) and (c)(8) and 61.150(b)(1); and 35 Ill. Adm. Code 201.141. The People further allege that the respondents violated these provisions by (1) causing, threatening, or allowing air pollution; (2) failure to thoroughly inspect a structure prior to renovation; (3) failing to notify United States Environmental Protection Agency (USEPA) of demolition or renovation activity; (4) failing to follow proper emission control procedures; and (5) failing to follow proper disposal procedures. The Board accepted the case for hearing on April 7, 2005.

On June 14, 2006, the People and the respondents 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). These filings are authorized by Section 31(c)(2) of the Act. 415 ILCS 5/31(c)(2) (2004). *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, the respondents do not affirmatively admit the violations alleged in the complaint, but agree to pay a civil penalty of \$20,000.

The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Chicago Sun-Times* on June 26, 2006. 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 set 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 the respondents' 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.

As previously stated, the respondents do not admit the violations alleged in the complaint, but agree to pay a civil penalty of \$20,000. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004), *as amended by* P.A. 93-575, (eff. Jan. 1, 2004), which may mitigate or aggravate the civil penalty amount. The People determined that a civil penalty of \$20,000 was appropriate.

The People and the respondents have satisfied Section 103.302. 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. Pattison Associates LLC and 5701 South Calumet LLC (respondents) must pay a civil penalty of \$20,000 within 14 days from the date of this order.
3. The respondents 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 respondents' federal employer identification or social security numbers must be included on the certified check or money order. If submitting an electronic funds transfer to the Agency, the electronic funds transfer must be made in accordance to the specific instructions provided to respondents.
4. The respondents must submit the certified check, money order or electronic funds transfer to:

Illinois Environmental Protection Agency
 Fiscal Services Section
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, Illinois 62794-9276
5. A copy of the certified check, money order or record of the electronic funds transfer and any transmittal letter must be sent to the following:

Ms. Paula Becker Wheeler
 Assistant Attorney General
 Environmental Bureau
 188 W. Randolph Street, 20th Floor
 Chicago, Illinois 60601

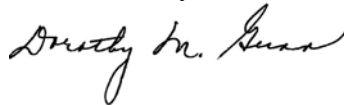
Mr. Christopher Pressnall
 Assistant Counsel
 Illinois Environmental Protection Agency
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, Illinois 62794-9276

6. 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).
7. The respondents 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 4, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board