

ILLINOIS POLLUTION CONTROL BOARD
March 4, 2010

CHAD A. GIFFORD,)
)
Complainant,)
)
v.) PCB 08-13
) (Citizen's Enforcement - Noise)
AMERICAN METAL FIBERS, INC., an)
Illinois corporation,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by G.L. Blankenship):

On August 1, 2007, Chad Gifford (Gifford) filed a complaint against American Metal Fibers, Inc. (American Metal). The complaint concerns American Metal Fibers' metal fiber manufacturing facility located at 2889 North Nagel Court, Lake Bluff in Lake County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)),¹ citizens may bring actions before the Board to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2008); 35 Ill. Adm. Code 103. In this case, the Gifford alleges that American Metal Fibers violated Section 24 of the Act (415 ILCS 5/25 (2008) and Section 901.102(h) of the Board's regulations (35 Ill. Adm. Code 901.102(h)) by manufacturing noise and vibrations that interfered with the Gifford's ability to sleep and comfortably use his home during both the day and night.

On February 16, 2010, Gifford and American Metal Fibers 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) (2008)). This filing is authorized by Section 31(d)(2) of the Act (415 ILCS 5/31(d)(2) (2008)), which allows the parties to forgo a hearing, so long as it is not required under Section 31(c)(1) and the Board does not exercise its discretion to require one. *See* 35 Ill. Adm. Code 103.300(a). The Board does not require a hearing to be held. The Board grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2008); 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. *See* 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 American Metal'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) (2008)), which bears on the

¹ All citations to the Act will be to the 2008 compiled statutes, unless the provision at issue has been substantively amended in the 2008 compiled statutes.

reasonableness of the circumstances surrounding the alleged violations. American Metal Fibers neither admits nor denies the alleged violations. The stipulation provides that American Metal Fibers has taken steps to reduce the noise and vibrations that its facility produces, and that the parties have come to an agreement that is mutually acceptable. *See* Joint Stipulation for Dismissal at 1. These steps include removing fans from exterior walls, filling the exterior walls with bricks, and installing new valves. *Id.*

The Gifford and American Metal 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. The Board grants the parties' request for relief from hearing.
3. The Board grants the parties' request to dismiss the case.

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) (2008); *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, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 4, 2010, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board