

ILLINOIS POLLUTION CONTROL BOARD  
May 17, 2012

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 11-105
	)	(Enforcement - Water)
KOLB-LENA BRESSE BLEU, INC., KOLB-	)	
LENA, INC., and ZAUSNER FOODS CORP.,	)	
	)	
Respondents.	)	

ORDER OF THE BOARD (by C.K. Zalewski):

On June 30, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a nine-count complaint against Kolb-Lena Bresse Bleu, Inc., an Illinois corporation (KLBB); Kolb-Lena, Inc., a Delaware corporation; and Zausner Foods Corp., a Delaware corporation (collectively respondents). The complaint concerns KLBB's cheese processing plant at 3990 North Sunnyside Road, Lena, Stephenson 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 (2010)), the Attorney General and the State's Attorney may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2010); 35 Ill. Adm. Code. 103. In this case, the People allege that the respondents violated Sections 9(a), 9(c), 12(a), 12(d), 12(f) of the Act, 415 ILCS 5/9(a), 9(c), 12(a), 12(d), 12(f) (2010), and the Board's regulations at Sections 237.102(a), 304.106, 304.120(a), 306.102(a), and 309.204 (35 Ill. Adm. Code 237.102(a), 304.106, 304.120(a), 306.102(a), and 309.204).

The People further allege that respondents violated these section by: 1) causing, threatening, or allowing air pollution; 2) causing or allowing the open burning of refuse; 3) by causing or allowing the discharge of contaminants that can cause water pollution; 4) causing or allowing the deposition of contaminants upon the land that create a water pollution hazard; 5) causing, threatening, or allowing the discharge of a contaminant from a point source into Illinois' waters without an NPDES permit; 6) causing, threatening or allowing the discharge of effluent in violation of the Board's regulations; 7) causing or allowing the discharge of effluent from the facility's spray irrigation system; 8) failing to construct or operate treatment works and associated facilities to minimize violating applicable standards during an equipment failure; and 9) using or operating treatment works without operating permits for a spray irrigation system and for sludge. *See* 35 Ill. Adm. Code 103.204(c).

On March 15, 2012, the parties 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) (2010)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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). Under the proposed stipulation, respondents do not affirmatively admit the alleged violations, but agree to pay a civil penalty of \$27,000.00.

The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Lena Village Voices* on April 11, 2012. 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) (2010); 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 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) (2010)). The People and the respondents have satisfied Section 103.302. Respondents do not affirmatively admit the alleged violations, but agree to pay a civil penalty of \$27,000.00. 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. Respondents must pay a civil penalty of \$27,000.00 by June 18, 2012, which is the first business day following the 30th day after the date of this order. The respondents must pay the civil penalties by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and respondents' federal employer identification number(s) must be included on the certified check or money order.
3. The respondents must send the certified check or money order to:

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

Respondents must send a copy of the certified check or money order, and any transmittal letter to:

Thomas Shepherd  
Environmental Bureau  
Illinois Attorney General's Office  
69 West Washington Street, Suite 1800  
Chicago, Illinois 60602

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
5. The respondents must cease and desist from the 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) (2010); *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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 17, 2012, by a vote of 5-0.



---

John Therriault, Clerk  
Illinois Pollution Control Board