

ILLINOIS POLLUTION CONTROL BOARD
July 12, 2012

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 12-125
) (Enforcement - Air)
LASALLE STREET CAPITAL, INC., an)
affiliate of Bank of America, National)
Association,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by T.A. Holbrook):

On May 1, 2012, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against LaSalle Street Capital, Inc. (LaSalle). The complaint concerns LaSalle's facility located at 540 West Madison Street in Chicago, Cook County, which includes emission units consisting of seven emergency diesel electric generators, two 220-volt fuel heaters, and four fuel storage tanks. 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 Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that LaSalle violated Sections 9(a) and 39.5(6)(b) of the Act (415 ILCS 5/9(a), 39.5(6)(b) (2010)), Section 201.302(a) of the Board's air pollution regulations (35 Ill. Adm. Code 201.302(a)), and Sections 254.132(a) and 254.137(a) of the Illinois Environmental Protection Agency's air pollution regulations (35 Ill. Adm. Code 254.132(a), 254.137(a), 254.132(a)). According to the complaint, LaSalle violated these provisions by operating a Clean Air Act Permit Program (CAAPP) source without a CAAPP permit and by failing to timely submit an Annual Emissions Report (AER).

Also on May 1, 2012, the People and LaSalle 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). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Chicago Sun-Times* on June 14, 2012. The Board did not receive any request 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. *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 LaSalle'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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. LaSalle does not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2010)), which may mitigate or aggravate the civil penalty amount. LaSalle agrees to pay a civil penalty of \$15,600, of which \$3,600 constitutes LaSalle's economic benefit from noncompliance, representing avoided air pollution site fees. The People and LaSalle 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. LaSalle must pay a civil penalty of \$15,600 no later than August 13, 2012, which is the first business day following the 30th day after the date of this order. LaSalle must pay the \$15,600 civil penalty by certified checks or money orders, payable to the Illinois Environmental Protection Agency, as follows: one payment, consisting of \$12,000, must be directed for deposit into the Environmental Protection Trust Fund; and the other payment, consisting of \$3,600, must be directed for deposit into the Permit and Inspection Fund. The case name, case number, and LaSalle's federal tax identification number must appear on the face of the certified checks or money orders.
3. LaSalle must submit payment of the civil penalty to:

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

LaSalle must send a copy of each certified check or money order and any transmittal letter to:

Environmental Bureau
Illinois Attorney General's Office
69 West Washington Street
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. LaSalle must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

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 T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 12, 2012, by a vote of 5-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board