

ILLINOIS POLLUTION CONTROL BOARD

February 3, 2000

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 97-217
)	(Enforcement - Water)
BIGELOW GROUP, INC., an Illinois)	
corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by M. McFawn):

On December 16, 1999, complainant filed a stipulation and proposal for settlement, accompanied by an agreed motion requesting relief from the hearing requirement imposed by Section 31(c)(1) of the Environmental Protection Act (Act) (415 ILCS 5/31(c)(1) (1998)). Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (1998)) specifically authorizes such filings by the parties to an enforcement action. In accordance with Section 31(c)(2), the Board directed the Clerk of the Board to cause publication of notice of the stipulation and proposal for settlement in a newspaper of general circulation in the county in which the alleged violation occurred. On December 31, 1999, the notice was published in Lake County, Illinois, in the *Round Lake News*.

Under Section 31(c)(2), any person may file a written demand for hearing within 21 days after publication of the notice. No request for hearing was received by the Board within the 21-day time period. The Board therefore may, and will, grant the agreed motion for relief from the hearing requirement.

The two-count amended complaint filed in this case alleges that respondent Bigelow Group, Inc. (Bigelow) violated the Act and its implementing regulations by threatening the release of contaminants into the environment so as to cause or tend to cause water pollution in Illinois (count I) and constructing a sewer without a permit (count II). Under the proposed settlement, Bigelow admits the alleged violations and agrees to pay a civil penalty of \$20,500.

The stipulation submitted by the parties sets forth facts relating to Bigelow's operations, the alleged violations, and the factors considered by the Board under Sections 33(c) and 42(h) of the Act, 415 ILCS 5/33(c), 42(h) (1998), in crafting final orders and determining monetary penalties. Based on the facts set forth in the stipulation, the Board concludes that the proposed settlement is reasonable. The Board will accept the proposal for settlement.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

1. The hearing requirement of Section 31(c)(1) of the Act is waived in this case.
2. The Board accepts the “Stipulation and Proposal for Settlement” executed by the People of the State of Illinois and Bigelow Group, Inc.. The “Stipulation and Proposal for Settlement” is incorporated by reference as though fully set forth herein. Although not every term of the settlement is set forth in this order, all terms of the settlement are incorporated into this order.
3. Bigelow must pay a civil penalty of \$20,500, in accordance with the following payment schedule: Bigelow must pay \$2,562.50 within 30 days of the date of this order, and the remaining amount in seven quarterly installments of \$2,562.50, due and payable on the first day of each quarterly month.
4. Payment must be delivered to:

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

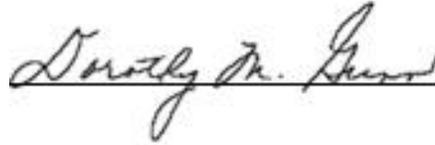
Payments must be made payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund. The name and number of this case and Bigelow’s federal employer identification number must appear on the face of the payment check.

5. Bigelow must cease and desist from further violations of the Act and its implementing regulations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 3rd day of February 2000 by a vote of 5-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board