

L.A. REPORTING (312) 419-9292

1 A P P E A R A N C E S:

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ILLINOIS POLLUTION CONTROL BOARD,
100 West Randolph Street
Suite 11-512
Chicago, Illinois 60601
(312) 814-6983

5 BY: MR. BRADLEY P. HALLORAN, HEARING OFFICER

6

LAW OFFICE OF RICHARD M. KATES,
155 North Michigan Avenue
Suite 700
Chicago, Illinois 60601
(312) 236-0267

9 BY: MR. RICHARD M. KATES

10 On behalf of the Complainants;

11

SEYFARTH SHAW
55 East Monroe Street
Suite 4200
Chicago, Illinois 60603
(312) 269-8903

13 BY: MR. ERIC E. BOYD

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Appeared on behalf of the Respondent.

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1 MR. HEARING OFFICER: Good morning.
2 My name is Bradley Halloran. I'm a hearing officer
3 with the Illinois Pollution Control Board, and I am,
4 likewise, assigned to this matter entitled Brian
5 Finley, et al., versus IFCO ICS-Chicago, Inc., PCB
6 Number 2-208.

7 Today's date is January 30 in the
8 year 2003. It's approximately 9:00 a.m. This
9 matter has been noticed pursuant to the Board
10 regulations and will be conducted in accordance with
11 Sections 103.304 and 306 and Section 101.628 of the
12 Board's procedural rules.

13 This matter involves a citizen
14 enforcement to which the parties wish the Board to
15 accept the stipulation and proposal for settlement.
16 Section 103.306 states the Board will consider the
17 proposed settlement and stipulation agreement and
18 the hearing record.

19 The Board may accept, suggest
20 revisions in, reject a proposed settlement and
21 stipulation agreement or direct further hearings
22 that it deems appropriate. To that end, there
23 appears to be no -- in fact, there are no members of
24 the public present and if they were, they would be

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1 allowed to make a statement subject to cross or if a
2 public statement the public did not wish to be
3 subject to cross, that would be weighed accordingly.

4 I've asked the parties previously
5 to highlight, for the record, any kind of highlights
6 and stipulation they wish to comment on.

7 MR. KATES: I'm not sure if
8 Mr. Kates -- excuse me. I guess the parties should
9 introduce themselves.

10 Mr. Boyd, would you like to
11 introduce yourself, please.

12 MR. BOYD: My name is Eric Boyd. I am
13 the attorney for IFCO ICS-Chicago, Inc., which is
14 the respondent in this matter.

15 MR. KATES: I am Richard Kates. I
16 represent Brian Finley and the other 98 individual
17 complainants, plus the union that is also a
18 complainant.

19 MR. HEARING OFFICER: Thank you,
20 gentlemen. So if Mr. Kates or Mr. Boyd, whomever
21 chose to highlight what's in the stip --

22 MR. KATES: Well, I'll just mention
23 the purpose of this hearing and of the complaint was
24 to cause a remedy to the complainants for what they

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1 maintained was air pollution arising from a facility
2 of the respondent. The proposed settlement is a
3 settlement that would take the operating permit from
4 the respondent and, in effect, the respondent would
5 close down by May 31 of 2003.

6 It is felt that it is reasonable
7 under the circumstances as enumerated in the
8 stipulation and proposal of settlement, and it is in
9 the best interest for the complainants and public
10 because it will close down the facility that has
11 been blamed for the pollution and the effects of the
12 pollution as were enumerated in the complaint.

13 And, therefore, on behalf of
14 complainants, we feel that it is the best and most
15 reasonable solution under the circumstances, and we
16 ask that the Board accept it.

17 MR. HEARING OFFICER: Thank you.

18 Mr. Boyd, anything further?

19 MR. BOYD: I agree with everything
20 Mr. Kates said. I'll just add that when the
21 respondent, my client, filed an answer, we denied
22 material allegations of the complaint. This
23 settlement does not admit to the alleged violations,
24 but as the settlement states, it was agreed to in

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1 order to avoid the delay and further expense of
2 additional litigation.

3 The specific terms of the
4 settlement are outlined in the settlement agreement.
5 We filed that with the Board on November 18. The
6 Board issued its order on December 5 and requires to
7 have this hearing. So today what we're really doing
8 is presenting the stipulation through the hearing
9 process for the Board's consideration.

10 MR. HEARING OFFICER: Thank you,
11 Mr. Boyd. Would you like to enter the stipulation
12 in the record at this time?

13 MR. BOYD: At this time, I'll enter
14 that the stipulation and proposal for settlement
15 that's dated 11-18-02, which we previously filed
16 with the Board on November 18, we've marked it for
17 today's hearing as Exhibit Number 1.

18 MR. HEARING OFFICER: Thank you. And
19 that will so be admitted in the record and in
20 evidence.

21 With that said, we discussed -- we
22 believe the transcript will be ready by February 11,
23 eight business days. And by the rules, I'm required
24 to set a time for public comment, and that public

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1 comment is due on or before February 14, 2003.

2 At this point, I will not set a
3 briefing schedule for the parties unless, of course,
4 public comment does come in and the parties wish to
5 respond to that public comment, but we'll cross that
6 bridge when we get to it.

7 If there's no further comments,
8 issues, statements that the parties would like to
9 make, that will be it. And thanks for coming, and
10 have a great day.

11 MR. BOYD: Thank you.

12 MR. KATES: Thank you.

13 (Which were all the proceedings
14 had in the above-entitled cause
15 on this date.)

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1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF DUPAGE)

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4 I, MARIA E. SHOCKEY, CSR, do
5 hereby state that I am a court reporter doing
6 business in the City of Chicago, County of DuPage,
7 and State of Illinois; that I reported by means of
8 machine shorthand the proceedings held in the
9 foregoing cause, and that the foregoing is a true
10 and correct transcript of my shorthand notes so
11 taken as aforesaid.

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Maria E. Shockey, CSR
Notary Public,
DuPage County, Illinois

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17 SUBSCRIBED AND SWORN TO
18 before me this 5th day
of February, A.D., 2003.

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Notary Public

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