

ILLINOIS POLLUTION CONTROL BOARD

June 26, 2008

IN THE MATTER OF:)	
)	
PETITION OF BIG RIVER ZINC)	AS 08-9
CORPORATION FOR AN ADJUSTED)	(Adjusted Standard – Land)
STANDARD UNDER 35 ILL. ADM. CODE)	
720.131(c))	

HEARING OFFICER ORDER

Regarding the adjusted standard petition of Big River Zinc Corporation (BRZ), the Board stated the following in its May 15, 2008 order:

The Board is reviewing the petition to identify whether it contains all of the necessary information. Whether the Board will order a hearing depends on several factors, including whether the Board identifies informational deficiencies in the petition and, if so, BRZ's response to any such deficiencies, as well as the Board's assessment of the Agency's recommendation. Petition of Big River Zinc Corporation for an Adjusted Standard Under 35 Ill. Adm. Code 720.131(c), AS 08-9, slip op. at 2 (May 15, 2008).

Consistent with the Board's order, the hearing officer directs BRZ to file an amended petition responding to the issues set forth in Attachment A to this order. *See* 35 Ill. Adm. Code 104.418(a), (d). BRZ must file the amended petition within 30 days after receiving this order. The Illinois Environmental Protection Agency may file an amended recommendation within 21 days after being served with the amended petition. *See* 35 Ill. Adm. Code 104.418(b), (d). In turn, BRZ may file a response to any amended recommendation within 14 days after being served with the amended recommendation. *See* 35 Ill. Adm. Code 104.418(c).

IT IS SO ORDERED.



Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/524-8509
webbc@ipcb.state.il.us

ATTACHMENT A
to June 26, 2008 Hearing Officer Order

AS 08-9, Petition of Big River Zinc Corporation for an Adjusted Standard
Under 35 Ill. Adm. Code 720.131(c)

1. The Board's final order in AS 99-3 contained conditions limiting the scope of material covered by the determination, including the condition that the electric arc furnace (EAF) zinc oxide¹ "will undergo BRZ's electrolytic zinc refining process at its facility in Sauget." Petition of Big River Zinc Corporation for an Adjusted Standard Under 35 Ill. Adm. Code 720.131(c), AS 99-3, slip op. at 6 (May 6, 1999) (paragraph 2(a)(1) of order).²

BRZ states in its April 1, 2008 petition filed in AS 08-9 that BRZ seeks to be able to sell washed EAF zinc oxide to third parties "for further refining" or return the washed material to suppliers for sale to "another refiner." Petition (Pet.) at 1; *see also id.* at 3, 4-5, 6, Affidavit at 1-2. BRZ clarifies in its May 22, 2008 response to the Agency's May 9, 2008 recommendation that a third party may purchase the washed EAF zinc oxide from BRZ not only to "refine it to zinc metal" but also to "process it to produce other final commercial products such as zinc sulfate." Response (Resp.) at 2, n.1, Affidavit at 1, n.1.

Besides refining to produce zinc metal, please describe the other processes to which BRZ expects its washed material to be subjected, as well as the resulting end products and their uses.

2. BRZ has provided information concerning the economic value of washing EAF zinc oxide and of the washed material itself. *See* Pet., Affidavit at 2-3; Resp. at 1-2, Affidavit at 1-2. BRZ has also stated that it "will enter into contracts with its suppliers or third-party refiners to ensure the final reclaiming occurs." Pet. at 5.
 - A. Please provide information about existing or prospective contracts for BRZ's contemplated sale or return of washed EAF zinc oxide and any

¹ "EAF zinc oxide" refers to secondary zinc oxide material recovered from EAF dust through a high temperature metals recovery (HTMR) process.

² BRZ's petition and response in AS 08-9 (Pet. at 2; Resp. at 4, n.1) quote this condition as it appeared in the Board's AS 99-3 order of April 15, 1999 (Petition of Big River Zinc Corporation for an Adjusted Standard Under 35 Ill. Adm. Code 720.131(c), AS 99-3, slip op. at 18 (Apr. 15, 1999)), which order was incorporated into the AS 08-9 record on BRZ's motion. The language of the condition, however, was modified by the Board's AS 99-3 order of May 6, 1999, in which the Board granted BRZ's motion to reconsider.

other relevant information concerning the extent to which an end market for BRZ's washed material is guaranteed. See Petition of Horsehead Resource and Development Company, Inc. for an Adjusted Standard Under 35 Ill. Adm. Code 720.131(c), AS 00-2, slip op. at 7-8, 12-13 (Feb. 17, 2000).

- B. BRZ's petition includes tables summarizing seven years (1999-2005) of data from BRZ's washing plant, including the levels of chloride, fluoride, sodium, and potassium in EAF zinc oxide supplied to BRZ; the reduction of those constituents after washing; and the average removal estimates. Pet., Affidavit at 2-3. Please describe the collection and testing methodology used to gather this data and any plans BRZ has for such sampling in the future. See Petition of Horsehead Resource and Development Company, Inc. for an Adjusted Standard Under 35 Ill. Adm. Code 720.131(c), AS 00-2, slip op. at 17 (Feb. 17, 2000) (condition requiring post-process sampling).
- C. Could a supplier or third party decline to accept a shipment of BRZ's washed EAF zinc oxide, such as for elevated levels of inorganic salts? If so, how would rejected material be handled?
- D. Please explain how BRZ plans to "return" the washed EAF zinc oxide to the "original supplier." Pet. at 3. Would the actual material received from a given supplier, after washing, be returned to that supplier?
3. Please provide any updated information about existing or prospective contracts for BRZ's contemplated acquisition of EAF zinc oxide, the economic value of and markets for EAF zinc oxide, and BRZ's proposed handling of incoming EAF zinc oxide from its arrival at the Sauget facility through the washing phase, including the anticipated volumes, any permitting, and the manner and duration of any storage.
4. BRZ states that its proposal in AS 08-9 "will only change the location" of "the process of reclamation," *i.e.*, allowing the "final reclaiming" to occur *off-site*. Pet. at 5, 7; *see also id.* at 8 (BRZ seeks the "flexibility" of having the washed EAF zinc oxide "leave its facility"). This change alone, however, would entail a material handling process not addressed by BRZ in the pending request or in the prior proceedings, Petition of Big River Zinc Corporation for an Adjusted Standard Under 35 Ill. Adm. Code 720.131(c), AS 99-3 and Petition of Big River Zinc Corporation for an Adjusted Standard Under 35 Ill. Adm. Code 720.131(c), AS 06-4.

Please provide information on how the material that is to depart from the Sauget facility would be handled after the washing phase, including the anticipated volumes, any permitting, and the manner and duration of any storage, how loss would be minimized, and how washed material would be delivered to customers. See Petition of Horsehead Resource and Development Company, Inc. for an

Adjusted Standard Under 35 Ill. Adm. Code 720.131(c), AS 00-2, slip op. at 8-9, 13 (Feb. 17, 2000).

5. Please describe BRZ's planned expansion of the Sauget facility's washing operation (Pet. at 5; Resp. at 2, Affidavit at 2) and how the expansion would affect the handling of both incoming EAF zinc oxide and washed material headed either for off-site destinations or on-site refining.

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on June 26, 2008, to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on June 26, 2008:

John T. Therriault
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph St., Ste. 11-500
Chicago, Illinois 60601



Carol Webb
Hearing Officer
Illinois Pollution Control Board
1021 North Grand Avenue East
P.O. Box 19274
Springfield, Illinois 62794-9274
217/524-8509
webbc@ipcb.state.il.us

AS 2008-009
IEPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

AS 2008-009
William Ingersoll
IEPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

AS 2008-009
Jennifer T. Nijman
Nijman Franzetti LLP
10 South LaSalle Street
Suite 3600
Chicago, IL 60603