

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No. 23-103
)	(Enforcement - Air)
Aurora Metals Division L.L.C.,)	
)	
Respondent.)	

NOTICE OF FILING

To: Persons on Attached Service List

PLEASE TAKE NOTICE that I have today caused to be filed with the Clerk of the Illinois Pollution Control Board by electronic filing the following Complainant’s Motion to Voluntarily Dismiss Count II without Prejudice, a true and correct copy of which are attached hereto and hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS,
KWAME RAOUL, Attorney General of the State of Illinois

BY: /s/ Cara V. Sawyer
 Cara V. Sawyer
 Assistant Attorney General
 Environmental Bureau
 Illinois Attorney General’s Office
 69 W. Washington St., 18th Floor
 Chicago, Illinois 60602
 (773) 758-4583
 Primary email: cara.sawyer@ilag.gov
 Secondary email: maria.cacaccio@ilag.gov

Date: December 8, 2023

Service List

Brad Halloran
Hearing Officer
Illinois Pollution Control Board
60 E. Van Buren, Suite 630
Chicago, IL 60605
brad.halloran@illinois.gov
(Via Email)

Ann M. Zwick
Smith Gambrell & Russell LLP
311 S. Wacker Drive, Suite 3000
Chicago, IL 60606
azwick@sgrlaw.com
(Via Email)

CERTIFICATE OF SERVICE

I, Cara V. Sawyer, an Assistant Attorney General, certify that on the 8th day of December, 2023, I caused to be served the foregoing Notice of Filing, and Motion to Voluntarily Dismiss Count II without Prejudice on behalf of the People of the State of Illinois, on the parties named on the attached Service List, by the methods listed therein.

/s/ Cara V. Sawyer
Cara V. Sawyer
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington St., 18th Floor
Chicago, Illinois 60602
(773) 758-4583
Primary email: cara.sawyer@ilag.gov
Secondary email: maria.cacaccio@ilag.gov

against Aurora Metals Division L.L.C. (“Respondent”). Respondent is the owner and operator of a nonferrous metal foundry and machine shop, located at 1995 Greenfield Avenue, Montgomery, Kane County, Illinois.

2. On June 6, 2023, the Illinois EPA received from Respondent documentation showing that its 2021 AER had been timely submitted.

3. Respondent has agreed to settlement for the remaining Count I concerning the 2020 AER, and simultaneous with the filing of this Motion, Complainant is filing a Stipulation and Proposal for Settlement.

4. Section 101.500(a) of the Board’s Regulations, 35 Ill. Adm. Code 101.500, provides the following:

The Board may entertain any motion the parties wish to file that is permissible under . . . the Code of Civil Procedure.

5. Section 2-1009(a) of the Code, 735 ILCS 5/2-1009(a) (2022), provides as follows:

The plaintiff may, at any time before trial or hearing begins, upon notice to each party who has appeared or each such party’s attorney, and upon payment of costs, dismiss his or her action or any part thereof as to any defendant, without prejudice, by order filed in the cause.

6. As this matter has not yet reached trial, Complainant is authorized by Section 2-1009(a) to dismiss Count II of the Complaint regarding the 2021 AER without prejudice.

7. Section 5-117 of the Code, 735 ILCS 5/5-117 (2022), provides, in relevant part, as follows:

In all actions commenced or to be commenced for and on behalf of the people of this state . . . if the action is voluntarily dismissed by the plaintiff . . . the defendant shall not recover any costs whatever.

8. As provided by the plain language of Sections 2-1009(a) and 5-117 of the Code, 735 ILCS 5/2-1009(a) and 5/5-117 (2022), Complainant requests that Count II of the Complaint be dismissed without prejudice with both parties to each bear their own costs.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant its Motion and enter an order dismissing Count II against Respondent in this matter, without prejudice, with both parties to each bear their own costs.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
by KWAME RAOUL,
Attorney General of the
State of Illinois

BY: /s/ Cara V. Sawyer
CARA V. SAWYER
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(773) 758-4583
cara.sawyer@ilag.gov