ILLINOIS POLLUTION CONTROL BOARD June 21, 2001

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 00-190
)	(Enforcement – RCRA)
TRUSERV CORPORATION,)	
)	
Respondent.)	

OPINION and ORDER OF THE BOARD (by C.A. Manning):

On May 11, 2000, the People of the State of Illinois (People) filed a five-count complaint against respondent TruServ Corporation (TruServ), concerning its facility located at 201 East Brink Street, Harvard, McHenry County, Illinois. The complaint alleges violation of Sections 21(d-f) and 21(i) of the Environmental Protection Act (Act) (415 ILCS 5/21(d-f), 21(i) (2000)), and the Board's regulations at 35 Ill. Adm. Code 722.111, 807.201, and 807.202(a). TruServ allegedly failed to make hazardous or special waste determinations, failed to obtain development or operating permits, and transported waste into the State for disposal at a facility not in compliance with Section 21 of the Act.

On May 10, 2001, the parties filed a stipulation and proposal for settlement, accompanied by a motion requesting relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2000)). Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000)), the Board caused publication of the required newspaper notice of the stipulation and proposal for settlement and request for relief from the hearing requirement. The notice appeared in the *Northwest Herald* on May 12, 2001. The Board did not receive any requests for hearing. Accordingly, the Board grants a waiver from the hearing requirement.

The stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. Respondent does not admit to the violations alleged by the People, but agrees to pay a civil penalty of \$10,000.

The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. Respondent must continue to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's regulations.

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

ORDER

- 1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and TruServ Corporation (TruServ. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
- 2. TruServe must pay a civil penalty of \$10,000. Payment must be made within 30 days of the date of this order, that is, on or before July 21, 2001. Such payment must be made by certified check or money order payable to the Illinois Environmental Protection Agency, for deposit in the Environmental Protection Trust Fund. The case number, case name, and respondent's federal employer identification number 36-2099896 must also be included on the certified check or money order and clearly indicate that payment is directed to the Environmental Protection Trust Fund.
- 3. The check or money order must be sent by first class mail to:

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

A copy of the payment transmittal and check shall be simultaneously submitted to:

Kelly A. O'Connor Assistant Attorney General 188 W. Randolph St., 20th Floor Chicago, Illinois 60601

- 4. Any such penalty not paid within the time prescribed incurs interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003 (2000)), as now or hereafter amended, from the date payment is due until the date payment is received. Interest does not accrue during the pendency of an appeal during which payment of the penalty has been stayed.
- 5. Respondent must cease and desist future alleged violations of any federal, State, or local statutes and regulations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (2000)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of the date 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 101.520, 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 21st day of June 2001 by a vote of 7-0.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board