

ILLINOIS POLLUTION CONTROL BOARD

August 9, 2001

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 00-211
)	(Enforcement – RCRA)
TOYAL AMERICA, Inc., a Delaware)	
corporation f/k/a ALCAN-TOYAL)	
AMERICA, INC.,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by S.T. Lawton, Jr.):

On June 21, 2001, the People of the State of Illinois (People) and respondent, Toyal America, Inc. (Toyal) filed a joint stipulation and proposal for partial settlement of counts III, IV, V, VI, and VII of the People's complaint, and a motion requesting relief from the hearing requirement of Section 31(c)(1) of the Environmental Protection Act (Act). See 415 ILCS 5/31(c)(1) (2000). For the reasons expressed below, the Board accepts the stipulation and proposal for partial settlement by the two parties in this matter, and waives the hearing requirement under Section 31(c)(1) of the Act. This leaves counts I and II of the complaint pending for further proceedings.

The People allege in their seven-count complaint that Toyal operated an aluminum products manufacturing facility at 17401 South Broadway, Lockport, Will County, Illinois, in violation of the Act and Board's regulations. Counts III through VII of the complaint allege that Toyal stored hazardous waste at the Lockport facility for over 90 days without a Resource Conservation and Recovery Act (RCRA) permit, and maintained inadequate aisle space at the facility. The People further allege that Toyal failed to amend its contingency plan when the emergency coordinator was no longer with the company, meet secondary confinement requirements for containers of hazardous waste, and document any inspections that Toyal performed at the facility. This activity was in alleged violation of Sections 21(f)(1) and 21(f)(2) of the Act (415 ILCS 5/21(f)(1), 5/21(f)(2) (2000)); and Sections 703.121, 725.135, 725.154(d), 725.293(e)(2)(D), and 725.295(c) of the Board's regulations (35 Ill. Adm. Code 703.121, 725.135, 725.154(d), 725.293(e)(2)(D), 725.295(c)).

The stipulation and proposal for settlement between the People and Toyal sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. Toyal admits the alleged violations in counts III, IV, V, VI, and VII of the complaint and proposes to pay a \$31,500 penalty within 30 days of the adoption of this order. The People and Toyal allege in their joint stipulation and proposed settlement that, "[s]ince the time of the

alleged violations, Toyal has come into compliance with the pertinent sections of the Act and Board regulations.” Stip. at 7.¹

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 *Herald News* on June 29, 2001. The Board has not received any requests for hearing. Accordingly, the Board grants a waiver from the hearing requirement.

The Board notes that the stipulation and proposal for partial settlement only pertains to counts III through VII of the complaint. Counts I and II, concerning air pollution violations under the Act and Board regulations, are still before the Board for future consideration.

This opinion constitutes the Board’s findings of fact and conclusions of law for counts III, IV, V, VI, and VII of the complaint in this matter.

ORDER

1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois (People) and Toyal America, Inc. (Toyal), concerning counts III through VII of the complaint. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. Toyal must pay \$31,500 within 30 days of the date of this order, which is on or before September 8, 2001. It must make the payment by certified check or money order, payable to the Treasurer of the State of Illinois, and designated to the Environmental Protection Trust Fund. The case number, case name, and the Federal Employer Identification Number of Toyal, shall also be included on each check or money order, and should clearly indicate that payment is directed to the Environmental Protection Trust Fund.
3. The check or money order shall 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 or money order must be simultaneously submitted to:

Christopher Grant

¹ The People and Toyal filed a stipulation and proposal for partial settlement on June 21, 2001, which is referred to as “Stip. at ____.”

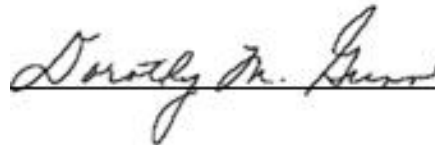
Assistant Attorney General
Illinois Attorney General's Office
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, Illinois 60601

4. Any such penalty not paid within the time prescribed shall incur 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 shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.
5. Respondent shall cease and desist all future violations of any federal, State, or local statutes and regulations.
6. This order does not affect the ongoing litigation of counts I and II of the complaint.

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 9th day of August 2001 by a vote of 6-0.

A handwritten signature in dark ink, appearing to read "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board