

ILLINOIS POLLUTION CONTROL BOARD
February 17, 2000

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 96-132
) (Enforcement - RCRA)
BURLINGTON NORTHERN RAILROAD)
COMPANY, a foreign corporation, BEAZER)
EAST, INC., a foreign corporation, and)
KOPPERS INDUSTRIES, INC., a foreign)
corporation,)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by R.C. Flemal):

On December 21, 1999, the parties filed a stipulation and proposal for settlement. The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. The complaint alleged that respondents violated Sections 21(f)(1), (2), and (3) of the Environmental Protection Act (Act) (415 ILCS 5/21(f)(1), (2), (3) (1998)) and 35 Ill. Adm. Code 703.121, 703.150, 703.152, 703.154, 722.120(a), 722.123, 722.132(b), 722.141, 725.113(a) and (b), 725.114(a), (b), and (c), 725.115(a), (b), (c), and (d), 725.131, 725.151, 725.152, 725.154, 725.156(b), and (c), 725.173(a), (b)(2) and (3), 725.174, 725.176, 725.212(a), and (c)(1)(A), 725.213(b), 725.242(a), 725.243, 725.247(a), 725.271, 725.274, 725.327, 725.351, 725.353 and 809.301 by failing to comply with various sections of the Act and the Board's hazardous waste regulations.

Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (1998)), 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 *Galesburg Register-Mail* on December 24, 1999. 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. Respondents deny the alleged violations and agree to pay \$173,000. Respondents also agree to pay \$2,000 for attorney fees and cost to reimburse the State of Illinois for the Attorney General's fees and cost in this matter. Respondents 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 Burlington Northern Railroad Company, a foreign corporation, Beazer East, Inc., a foreign corporation, and Koppers Industries, Inc., a foreign corporation, concerning a railroad tie treatment facility located in Knox County, Illinois. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. Respondents shall pay the sum of \$173,000 within 30 days of the date of this order. Such payment shall be made by certified check payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund. The case number, case name, and respondents' federal employer identification numbers shall also be included on the check (or money order) and should clearly indicate that payment is directed to the Environmental Protection Trust Fund. Respondents shall also pay the sum of \$2,000 to within 60 days of the date of this order. Such payment shall be made by certified check payable to the Treasurer of the State of Illinois, designated to the Illinois Hazard Waste Fund. The case number, case name, and respondents' federal employer identification numbers shall also be included on the check (or money order) and should clearly indicate that payment is directed to the Illinois Hazard Waste Fund.
3. The check (or money order) shall be sent by first class mail to:

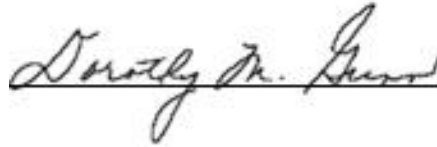
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in Section 1003(a) of the Illinois Income Tax Act, (35 ILCS 5/1003 (1998)), 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. Respondents shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) 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 establish such filing requirements. See 172 Ill. 2d R. 335; see also Ill. Adm. Code 101.246, 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 17th day of February 2000 by a vote of 6-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn". The signature is written in black ink and is positioned above a solid horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board