

ILLINOIS POLLUTION CONTROL BOARD
May 6, 1991

IN THE MATTER OF:)
)
CERTAIN HAZARDOUS WASTES FROM) R91-11
PRIMARY ZINC SMELTING AND) (Emergency rulemaking)
REFINING, 35 Ill. Adm. Code) (see also PCB 91-61)
721.104(b)(7)(U))

INTERIM ORDER OF THE BOARD (by J. Anderson):

On this day, May 6, 1991, the Board authorized the circulation of, and request for comment on, the attached draft emergency rule. The emergency rule might potentially grant relief to Big River Zinc Corp. (Big River Zinc). The Board's intent in taking the unusual step of circulating a draft order prior to formal action is to seek guidance in an unusual situation. We request comment both as to the usefulness and appropriateness of adopting such a rule. We specifically request comment from Big River, the Illinois Environmental Protection Agency and the United States Environmental Protection Agency.

The decision to circulate this draft emergency rule flows directly from a Board Interim Order in PCB 91-61, adopted this same day, which responded to a variance petition accompanied by a motion for stay filed by Big River on April 8, 1991. An understanding of our decision to circulate this draft emergency rule can best be found by reading the PCB 91-61 Interim Order, which is also enclosed herewith. Among other holdings in the PCB 91-61 Interim Order, the Board denied Big River's motion for stay, primarily due to procedural constraints.

The only procedural avenue that we are able to suggest that might give Big River the relief it seeks, certainly given its time constraints, is pursuant to the attached emergency rule. In so saying, we emphasize that the draft Order is not to be construed as pre-committing the Board to taking formal action on it.

The Board perceives that, if action is to be taken on the emergency rule, it must be done quickly if it is to give relief to Big River Zinc, if indeed any relief is possible at all. Therefore, it is especially important that comments be timely filed under the following schedule.

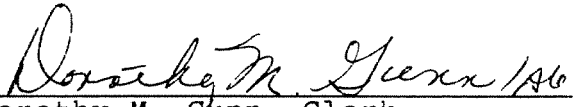
The Board will delay until Tuesday, May 14, 1991, its consideration as to whether to adopt this emergency rule, to allow interested parties to comment on this matter in light of the discussion in PCB 91-61. Comments must be received by 12:00 noon on May 13, 1991 to receive consideration. The Board authorizes the filing of comments by telefax, provided that any

telefax filing is followed by the filing of a typescript original and 9 copies.

The Board is particularly interested in any comment by USEPA. In the event that filing of this rule would in any way jeopardize the State's RCRA program authorization, or the rule would fail to give the petitioner effective relief, the Board would intend not to adopt this draft Order.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Interim Order was adopted on the 6th day of May, 1991, by a vote of 6-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board