

ILLINOIS POLLUTION CONTROL BOARD
November 21, 2002

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 00-108
) (Enforcement - Land)
BFI WASTE SYSTEMS OF NORTH)
AMERICA, INC., a foreign corporation and as)
successor-by merger to E&E HAULING, INC.,)

Respondent.

ORDER OF THE BOARD (by G.T. Girard):

On December 28, 1999, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against E&E Hauling, Inc., (E&E) and BFI Waste Systems of North America, Inc (BFI). *See* 415 ILCS 5/31(c)(1) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002; 35 Ill. Adm. Code 103.204. The People allege that E&E and BFI violated Section 21(d)(2) of the Environmental Protection Act (Act), (415 ILCS 5/21(d)(2) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002, and Section 814.401(a) of the Board's Waste Disposal Regulations. *See* 35 Ill. Adm. Code 814.401(a). The People state that E&E and BFI allegedly violated these provisions by operating without a permit and failing to initiate closure of the facility.

The complaint concerns activities at the Mallard Lake Landfill (Landfill) located at 26 West 580 Schick Road, Hanover Park, DuPage County. Prior to September 30, 1997 E&E operated the Landfill under contract with the Forest Preserve District of DuPage County. On September 30, 1997, E&E merged with BFI. After September 30, 1997, BFI operated the facility under contract with the Forest Preserve District of DuPage County.

On November 8, 2002, the People, E&E, and BFI filed a motion for leave to amend complaint, first amended complaint, and a stipulation and proposed settlement, accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002. The motion for leave to amend states that when BFI merged with E&E on September 30, 1997, BFI became the surviving corporation. Mot. at 2. To avoid confusion, the motion seeks to amend the complaint to reference BFI in its own right and as the successor-in-interest to E&E. Mot. at 2. The primary difference between the original complaint and the amended complaint relate to respondents' name change according to the motion. The Board grants the motion for leave to file an amended complaint and changes the case caption accordingly.

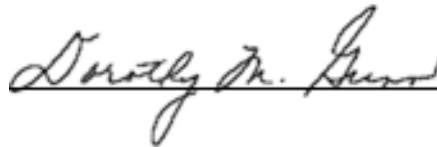
The filing of the stipulation and request for relief from the hearing requirement is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2000) *amended by* P.A. 92-

0574, eff. June 26, 2002. *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, BFI denies the alleged violations of Section 21(d) of the Act (415 ILCS 5/21(d) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002, and Section 814.401(a) of the Board's Waste Disposal Regulations (35 Ill. Adm. Code 814.401(a)), and agrees to pay a civil penalty of \$94,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. 415 ILCS 5/31(c)(2) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002; 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk of the Board to provide the required notice.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 21, 2002, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board