ILLINOIS POLLUTION CONTROL BOARD December 19, 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.,	/	(Entercontent Euro)
Respondent.))	

OPINION AND 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 and BFI filed a motion for leave to amend complaint which was granted, a 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). This filing 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). The Board published notice of the stipulation, proposed settlement, and request for relief in the Chicago Sun-Times on November 14, 2002. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2000) *amended by* P.A. 92-0574, eff. June 26, 2002; 35 Ill. Adm. Code 103.300(b).

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. 35 Ill. Adm. Code 103.302. These requirements include

stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of BFI's operations. Section 103.302 also requires that the parties stipulate to facts called for by Section 33(c) of the Act (415 ILCS 5/33(c) (2000)) *amended by* P.A. 92-0574, eff. June 26, 2002). The People and BFI have satisfied Section 103.302. BFI denies the alleged violation(s) and agrees to pay a civil penalty of \$94,000. The Board accepts the stipulation and proposed settlement.

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

ORDER

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. BFI must pay a total civil penalty of \$94,000. BFI must pay \$44,000 no later than January 15, 2003. BFI must pay the final installment of \$50,000 no later than January 21, 2003 (which is the 30th day after the date of this order). BFI must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and BFI's social security number or federal employer identification number must be included on the certified check or money order.
- 3. BFI must send the certified check or money order to:

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

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2000)) *amended by* P.A. 92-0574, eff. June 26, 2002) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2000)) *amended by* P.A. 92-0574, eff. June 26, 2002).
- 5. BFI must cease and desist from the alleged violations.

IT IS SO ORDERED.

Chairman C.A. Manning abstained.

Section 41(a) of the Environmental Protection Act provides that final Board orders may be appealed directly to the Illinois Appellate Court within 35 days after the Board serves the order. 415 ILCS 5/41(a) (2000); *see also* 35 Ill. Adm. Code 101.300(d)(2), 101.906, 102.706. Illinois Supreme Court Rule 335 establishes filing requirements that apply when the Illinois

Appellate Court, by statute, directly reviews administrative orders. 172 Ill. 2d R. 335. The Board's procedural rules provide that motions for the Board to reconsider or modify its final orders may be filed with the Board within 35 days after the order is received. 35 Ill. Adm. Code 101.520; *see also* 35 Ill. Adm. Code 101.902, 102.700, 102.702.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 19, 2002, by a vote of 5-0.

Dorothy Th. Jun

Dorothy M. Gunn, Clerk Illinois Pollution Control Board