

BEFORE THE POLLUTION CONTROL BOARD RECEIVED
OF THE STATE OF ILLINOIS CLERK'S OFFICE

MAY 29 2003

IN THE MATTER OF:)
)
Petition of THE ENSIGN BICKFORD) AS 00-5
COMPANY for an) (Adjusted Standard)
Adjusted Standard from 35 Ill. Adm.)
Code 237.103)

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

Ms. Dorothy Gunn
Clerk – Illinois Pollution
Control Board
100 W. Randolph Street
Suite 11-100
Chicago, IL 60601

Rachel Doctors
Assistant Counsel
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

PLEASE TAKE NOTICE that we filed on Friday, May 23, 2003 with the Clerk of the Illinois Pollution Control Board **Petitioner's Motion of The Ensign Bickford Company and Dyno Nobel Inc. to Reopen Docket and Substitute Dyno Nobel Inc. As The Named Party On The Order**, a copy of which is hereby served upon you.

THE ENSIGN-BICKFORD COMPANY,

By: Roy M. Harsch / sm
One of Their Attorneys

Roy M. Harsch, Esq.
Sheila Deely
GARDNER, CARTON & DOUGLAS
191 N. Wacker Drive - Suite 3700
Chicago, IL 60606
(312) 569-1000

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE POLLUTION CONTROL BOARD
OF THE STATE OF ILLINOIS

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MAY 23 2003

IN THE MATTER OF:)
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Petition of THE ENSIGN-) AS 00-5
BICKFORD COMPANY for an) (Adjusted Standard)
Adjusted Standard from 35 Ill. Adm.)
Code 237.103)

STATE OF ILLINOIS
Pollution Control Board

**MOTION OF THE ENSIGN BICKFORD COMPANY AND DYNOL NOBEL INC. TO
REOPEN DOCKET AND SUBSTITUTE DYNOL NOBEL INC. AS THE NAMED PARTY
ON THE ORDER**

The Ensign-Bickford Company ("EBCo") and Dyno Nobel Inc. (collectively "Movants") by and through their undersigned counsel, hereby move the Illinois Pollution Control Board to reopen the docket for the purposes of substituting Dyno Nobel Inc. for EBCo on the Order issued to EBCo on March 20, 2003.

Movants set forth the following in support of this motion:

1. EBCo submitted an adjusted standard petition to the Board on September 23, 1999. This petition requested an adjusted standard to lawfully open burn certain explosive waste, and potentially explosive-contaminated waste, and to flash equipment containing residues of potentially explosive-contaminated materials at EBCo's Wolf Lake facility in Union County.

2. The Board granted the adjusted standard in an Order dated March 26, 2003. In that Order, the Board found that EBCo had shown factors relating to the site are substantially and significantly different from those factors relied upon by the Board in adopting the prohibition on open burning.

3. In light of the above, the Board found that EBCo had presented adequate proof of justification for the requested adjusted standard as set forth in Section 28.1 of the Illinois Environmental Protection Act and for alternate standards under the Clean Air Act.

4. Dyno Nobel Inc. has acquired certain assets of EBCo, and it became the new operator of the facility located at Wolf Lake, Illinois on May 2, 2003.

5. The transaction was not a merger, as may have been previously represented in EBCo's various filings and in the hearing testimony in this matter. The transaction was a purchase of certain assets by Dyno Nobel Inc.

6. Dyno Nobel Inc. has agreed to assume and be responsible for the obligations and liabilities arising from the operation of the Wolf Lake facility from and after May 2, 2003. Dyno Nobel Inc. is in the process of completing the transfer of the EBCo environmental permits and licenses that are required to be transferred by applicable law and regulation.

7. Dyno Nobel Inc. is part of a global family of entities manufacturing and distributing commercial explosives ("the Dyno Nobel Entities") used for applications such as quarrying, mining, construction and seismology. Dyno Nobel Inc. is a subsidiary of Dyno Nobel Holding AS, headquartered in Oslo, Norway. The Dyno Nobel Entities have operations in 33 countries worldwide with over 5000 employees.

8. Dyno Nobel Inc. is a Delaware corporation with its headquarters located in Salt Lake City, Utah. Dyno Nobel Inc. currently operates fourteen manufacturing facilities and thirty distribution facilities in the United States and Canada. Each of these manufacturing facilities deals with environmental management issues such as air quality and hazardous waste management.

9. Consistent with world-wide company policy, Dyno Nobel Inc. has implemented environmental, health, and safety programs in an effort to be recognized as a global explosives-company leader. These programs make use of an industry-specific Det Norske Veritas Rating System, cultural surveys, technical audits, and physical condition inspections that taken as a

whole, require a rigorous Environmental, Health and Safety management system. Over the years, Dyno Nobel Inc. has substantially decreased the amount of waste generated at its facilities.

10. The Wolf Lake operational assets that were purchased from EBCo will become part of Dyno Nobel Inc.'s Initiation Systems Business Unit. For the period immediately after Closing, Dyno Nobel Inc. intends to operate the Wolf Lake facility in substantially the same manner as it has been operated by EBCo. Because the acquisition has just been completed, no plans have been developed or discussed for changing or increasing the manufacturing operations at the Wolf Lake facility (federal antitrust laws prevented the discussion or review of a number of critical factors until after Closing). If such plans are developed in the future, Dyno Nobel Inc. will ensure that all proper environmental permitting is in place. Furthermore, Dyno Nobel Inc. has no plans to increase the amount of waste treated by the open burning unit at issue in this matter, nor does Dyno Nobel Inc. have any intention to bring waste to the Wolf Lake facility from any other Dyno Nobel Inc. facilities either in Illinois or in other states. In fact, just as Dyno Nobel Inc. has done at its other North American facilities, it will be actively looking for methods to reduce the amount of explosive waste generated at the Wolf Lake facility.

11. Dyno Nobel has retained Todd Buchanan as the Environmental, Health and Safety Manager for the Wolf Lake facility. Mr. Buchanan previously held this position with EBCo.

12. The relevant factors required to justify the adjusted standard have not changed. The relevant factors did not involve the identity of the party open burning, but rather the nature of the facility operations and the resulting waste.

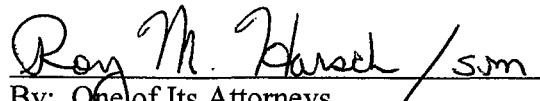
13. As noted in the Board's Order denying EBCo's Motion to Transfer Variance in the related variance proceeding (PCB 02-159), the Board has granted the relief requested by EBCo and Dyno Nobel Inc. in similar circumstances. *See, e.g., In re Petition of Commonwealth*

Edison Company for an Adjusted Standard from 35 Ill. Adm. Code 302.211(d) and (e), AS 96-10
(Mar. 16, 2000).

14. EBCo has notified the Illinois EPA of the proposed transfer of the Adjusted Standard, and Illinois EPA concurs that the March 15, 2003 Order should be amended to identify Dyno Nobel Inc., the new operator of the Wolf Lake facility, as the named party on the Order in lieu of EBCo.

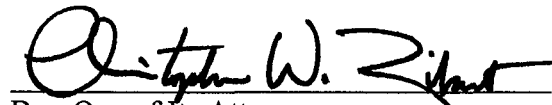
WHEREFORE, EBCo and Dyno Nobel Inc. move to reopen docket and substitute Dyno Nobel Inc. as the named party on the Order.

Respectfully submitted,
THE ENSIGN-BICKFORD COMPANY


By: One of Its Attorneys

Roy M. Harsch, Esq.
Sheila H. Deely, Esq.
GARDNER, CARTON & DOUGLAS
191 N. Wacker Drive, Suite 3700
Chicago, Illinois 60606-1698
(312) 569-1000

DYNO NOBEL INC.


By: One of Its Attorneys

Christopher W. Zibart
FOLEY & LARDNER
321 North Clark Street
Suite 2100
Chicago, IL 60610-4714
(312) 832-4500

Linda E. Benfield
FOLEY & LARDNER
777 East Wisconsin Avenue
Milwaukee, WI 53202
(414) 297-5825

CH02/22239117.1

4. On May 2, 2003, Dyno Nobel Inc. acquired certain assets of The Ensign-Bickford Company ("EBCo"). On May 2, 2003, Dyno Nobel Inc. became the new operator of the former EBCo facility located at Wolf Lake, Illinois on May 2, 2003.

5. Dyno Nobel Inc. has agreed to assume and be responsible for the obligations and liabilities arising from the operation of the Wolf Lake facility from and after May 2, 2003. Dyno Nobel Inc. is in the process of completing the transfer of the EBCo environmental permits and licenses that are required to be transferred by applicable law and regulation.

6. Dyno Nobel Inc. is part of a global family of entities manufacturing and distributing commercial explosives ("the Dyno Nobel Entities") used for applications such as quarrying, mining, construction and seismology. Dyno Nobel Inc. is a subsidiary of Dyno Nobel Holding AS, headquartered in Oslo, Norway. The Dyno Nobel Entities have operations in 33 countries worldwide with over 5000 employees.

7. Dyno Nobel Inc. is a Delaware corporation with its headquarters located in Salt Lake City, Utah. Dyno Nobel Inc. currently operates fourteen (14) manufacturing facilities and thirty (30) distribution facilities in the United States and Canada. Each of these manufacturing facilities deals with environmental management issues such as air quality and hazardous waste management.

8. Consistent with world-wide company policy, Dyno Nobel Inc. has implemented environmental, health, and safety programs in an effort to be recognized as a global explosives-company leader. These programs make use of an industry-specific Det Norske Veritas Rating System, cultural surveys, technical audits, and physical condition inspections that taken as a whole, require a rigorous Environmental, Health and Safety management system. Over the years, Dyno Nobel Inc. has substantially decreased the amount of waste generated at its facilities.

9. The Wolf Lake operational assets that were purchased from EBCo will become part of Dyno Nobel Inc.'s Initiation Systems Business Unit. For the period immediately after Closing, Dyno Nobel Inc. intends to operate the Wolf Lake facility in substantially the same manner as it has been operated by EBCo. Because the acquisition has just been completed, no plans have been developed or discussed for changing or increasing the manufacturing operations at the Wolf Lake facility (federal antitrust laws prevented the discussion or review of a number of critical factors until after Closing). If such plans are developed in the future, Dyno Nobel Inc. will ensure that all proper environmental permitting is in place. Furthermore, Dyno Nobel Inc. has no plans to increase the amount of waste treated by the open burning unit at issue in this matter, nor does Dyno Nobel Inc. have any intention to bring waste to the Wolf Lake facility from any other Dyno Nobel Inc. facilities either in Illinois or in other states. In fact, just as Dyno Nobel Inc. has done at its other North American facilities, it will be actively looking for methods to reduce the amount of explosive waste generated at the Wolf Lake facility.

10. Dyno Nobel has retained Todd Buchanan as the Environmental, Health and Safety Manager for the Wolf Lake facility. Mr. Buchanan previously held this position with EBCo.

11. Further, the Affiant sayeth not.



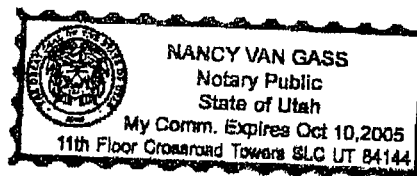
Neal Olsen

Subscribed and sworn to before me

this 23 day of May, 2003.

Notary Public Salt Lake County, Salt Lake City

My Commission Expires: Oct 10, 2005



CERTIFICATE OF SERVICE

I hereby certify that true copies of the foregoing **Notice of Filing and the Motion of The Ensign Bickford Company and Dyno Nobel Inc. to Reopen Docket and Substitute Dyno Nobel Inc. As The Named Party On The Order**, were served upon the parties on May 23, 2003.

Via Facsimile and First Class Mail

Rachel Doctors
Assistant Counsel
Illinois Environmental Protection Agency
Division of legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

Via First Class Mail

Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street - Suite 11-500
Chicago, IL 60601

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on May 23, 2003:

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Suite 11-500
Chicago, IL 60601

