

On July 5, 2006, the People and respondent Big River Zinc only filed 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) (2004)). (Allied Waste is not a party to this stipulation.) This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *The Belleville News Democrat* on July 15, 2006; any timely hearing request was due to be filed August 5, 2006. 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) (2004); 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 respondents 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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount.

Big River Zinc neither admits nor denies the alleged violations but agrees to pay a civil penalty of \$18,000. The People assert this penalty will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.¹

The People and Big River Zinc have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement. Consistent with the stipulation, the Board orders Big River Zinc to pay the civil penalty with fourteen days, rather than within 30 days as is the Board's usual custom.

This docket remains open, as the case against Allied Waste continues. Big River Zinc will not appear as a respondent in the caption of future orders in this case.

This opinion constitutes the Board's findings of fact and conclusions of law as to Big River Zinc only.

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement between the People and Big River Zinc.

¹ The stipulation also recites that the United States Environmental Protection Agency assessed a penalty of \$3,271 in 2003 for Clean Air Act and Resource Conservation and Recovery Act violations.

2. Big River Zinc, through its attorney of record, must pay a civil penalty of \$18,000 no later than August 31, 2006, which is the first business day after the 14th day after the date of this order. Big River Zinc must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Illinois Environmental Protection Agency, designated to the Environmental Protection Trust Fund. The case number, case name, and Big River Zinc's federal employer identification number must be included on the certified check, money order, or electronic funds transfer statement.

3. Big River Zinc, through its attorney of record, must send the certified check, money order, or electronic funds transfer to the following address:

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

4. Big River Zinc, through its attorney of record, must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following person at the indicated address:

Kristen Laughridge Gale
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62702

Melanie Jarvis
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

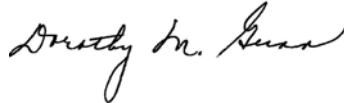
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).

6. Big River Zinc must cease and desist from the alleged violations.

IT IS SO ORDERED.

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) (2004); *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 August 17, 2006, by a vote of 4-0.

A handwritten signature in cursive script that reads "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board