

ILLINOIS POLLUTION CONTROL BOARD  
June 7, 2007

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 06-151
	)	(Enforcement - Land)
BIG RIVER ZINC CORPORATION, a	)	
Delaware corporation, and ALLIED WASTE	)	
TRANSPORTATION, INC. d/b/a MIDWEST	)	
WASTE, a Delaware corporation,	)	
	)	
Respondents.	)	

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

On March 28, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Big River Zinc Corporation (Big River Zinc) and Allied Waste Transportation, Inc. d/b/a Midwest Waste (Allied Waste). See 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns Big River Zinc’s zinc metal and co-product facility at 2401 Mississippi Avenue in Sauget, St. Clair County. The parties now seek to settle. For the reasons below, the Board accepts the parties’ stipulation and proposed settlement<sup>1</sup>.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2004)), the Attorney General and the State’s Attorneys may bring actions before the Board on behalf of the People to enforce Illinois’ environmental requirements. See 415 ILCS 5/31 (2004); 35 Ill. Adm. Code 103. In this case, the People allege that Allied Waste violated Section 21(g) of the Act (415 ILCS 5/21(g) (2004)) and 35 Ill. Adm. Code 723.120(a) and 809.301 by accepting waste from Big River Zinc without a compliant manifest and by conducting a hazardous waste transportation operation in violation of Board regulations.

On April 10, 2007, the People and Allied Waste 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)). 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. The newspaper notice was published in the *News-Democrat* on April 13, 2007. The Board did not receive any requests for hearing. The Board

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<sup>1</sup> On August 17, 2006, the Board issued an opinion and order in this case, accepting a stipulation and proposed settlement between the People and Big River Zinc. Allied Waste was not a party to that settlement.

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. *See* 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 Allied Waste'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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The People and Allied Waste have satisfied Section 103.302. 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. Allied Waste does not admit the alleged violations and agrees to pay a civil penalty of \$4,500 and to perform a supplemental environmental project valued at \$16,800. 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. Allied Waste must pay a civil penalty of \$4,500 no later than June 21, 2007, which is the 14th day after the date of this order. Allied Waste must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund.
3. Allied Waste must submit payment of the civil penalty to:

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

Allied Waste must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to:

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

4. Allied Waste must perform a supplemental environmental project (SEP) by reserving landfill capacity for waste. The value of the SEP is \$16,800 and the SEP must be performed as specified in the stipulation and proposal for settlement.
5. Allied Waste must cease and desist from future violations of the Act and Board regulations that were the subject of the complaint.

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, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on June 7, 2007, by a vote of 4-0.



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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board