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AUG 26 1996

STATE OF ILLINOIS
POLLUTION CONTROL BOARD

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

August 23, 1996

Jim Ryan
ATTORNEY GENERAL

The Honorable Dorothy Gunn
Illinois Pollution Control Board
State of Illinois Center
100 West Randolph
Chicago, IL 60601

Re: People v. Bell Sports, Inc. and Waste Hauling Landfill, Inc., and
Waste Hauling, Inc., PCB No. 95-91

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT, and STIPULATION AND PROPOSAL FOR SETTLEMENT in the above-captioned matter. Please file the originals and return a file-stamped copy of the documents to our office in the enclosed self-addressed stamped envelope.

Thank you for your cooperation and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas Davis".

Thomas Davis
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706

TD/lp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

CHAMPAIGN COUNTY, ILLINOIS

RECEIVED
CLERK'S OFFICE

AUG 26 1996

STATE OF ILLINOIS
POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

vs.

PCB No. 95-91

**BELL SPORTS, INC., a California
corporation, and WASTE HAULING
LANDFILL, INC., an Illinois corporation,
and WASTE HAULING, INC., an
Illinois corporation,**

Respondents.

NOTICE OF FILING

To: **Mike Wallace**
Chief Hearing Officer
Illinois Pollution Control Board
600 South Second Street
Suite 402
Springfield, Illinois 62704

Greg Richardson
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62794-9276

Mr. Stephen O. Willoughby
Willoughby, Latshaw & Hopkins, P.C.
502 West Prairie Avenue
P.O. Box 1336
Decatur, Illinois 62525

Robert M. Olian
Byron F. Taylor
Sidley & Austin
One First National Plaza
Chicago, Illinois 60603

PLEASE TAKE NOTICE that on this 23rd day of August, 1996, I mailed for
filing with the Clerk of the Pollution Control Board of the State of Illinois a copy of the

following instrument entitled MOTION FOR RELIEF FROM HEARING REQUIREMENT and
STIPULATION AND PROPOSAL FOR SETTLEMENT.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

JAMES E. RYAN
Attorney General
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement Division

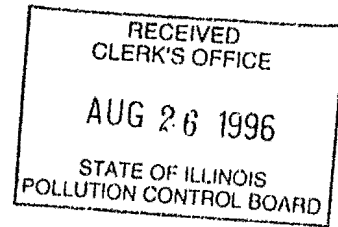
BY: 

THOMAS DAVIS
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031

Dated: 8/23/96

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
CHAMPAIGN COUNTY, ILLINOIS



PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No. 95-91
)	
BELL SPORTS, INC., a California)	
corporation, and WASTE HAULING)	
LANDFILL, INC., an Illinois corporation,)	
and WASTE HAULING, INC., an)	
Illinois corporation,)	
)	
Respondents.)	

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by its attorney, JAMES E. RYAN, Attorney General of the State of Illinois, and pursuant to Section 31(a)(2) of the Illinois Environmental Protection Act ("the Act"), 415 ILCS 5/31(a)(2) (1994), moves that the Illinois Pollution Control Board ("the Board") grant the parties in the above-captioned matter relief from the hearing requirement imposed pursuant to Section 31(a)(1) of the Act, 415 ILCS 5/31(a)(1) (1994). In support of this motion, Complainant states as follows:

1. On March 14, 1996, Complainant filed a complaint with the Board, alleging violations relating to the Respondent's operation of its Rantoul, Illinois facility.
2. Since that filing, the parties have reached agreement on all outstanding issues in this matter.
3. This agreement is memorialized and presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.

4. The parties agree a hearing on the Stipulation and Proposal for Settlement is not necessary, and request relief from such a hearing as provided pursuant to Section 31(a)(2) of the Act, 415 ILCS 5/31(a)(2).


WHEREFORE, Complainant, People of the State of Illinois, hereby respectfully requests that the Board grant this motion for relief from hearing requirement set forth in Section 31(a)(1) of the Act, 415 ILCS 5/31(a)(1).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

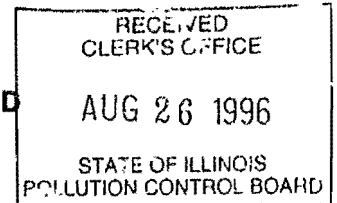
JAMES E. RYAN
Attorney General
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement Division

BY: 
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 8/23/96
bellmot.wpd/lp

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
CHAMPAIGN COUNTY, ILLINOIS



PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No. 95-91
)	
BELL SPORTS, INC., a California)	
corporation, and WASTE HAULING)	
LANDFILL, INC., an Illinois corporation,)	
and WASTE HAULING, INC. an Illinois)	
corporation,)	
)	
Respondents.)	

STIPULATION AND PROPOSAL FOR SETTLEMENT

Pursuant to 35 Ill. Adm. Code 103.180, the following stipulation and proposal for settlement entered into between the complainant, People of the State of Illinois, on behalf of the Illinois Environmental Protection Agency ("Agency"), and the respondent, Bell Sports, Inc. ("Bell"), is tendered for approval by the Illinois Pollution Control Board ("Board"). It is expressly understood and agreed to by and between Bell, James E. Ryan, Attorney General of the State of Illinois ("Attorney General") and the Agency that the agreements, stipulations and statements herein contained are not binding on the parties, and shall be deemed null and void, in the event such approval by the Board is not obtained, or in the event additional terms or conditions which are unacceptable to the parties are imposed by the Board. This stipulation and proposal for settlement is made for the purpose of settlement only and putting an end to litigation, and neither the fact that a party has entered into this stipulation and proposal for settlement, nor any of the facts stipulated herein, shall be introduced into evidence or construed as an admission of fact or law in any other proceedings conducted

before the Board or outside of the jurisdiction of the Board except to enforce the terms hereof by the parties to this agreement and as evidence of previously adjudicated violations for purposes of subsection 42(h) of the Illinois Environmental Protection Act ("the Act"), 415 ILCS 5/42(h) (1994). The agreement shall be null and void unless the Board approves and disposes of this matter on each and every one of the terms and conditions of the settlement set forth herein. Subject to the foregoing understanding and agreement, it is further agreed as follows:

I.

STIPULATION OF FACTS

1. On March 14, 1995, the complaint was filed against Bell, Waste Hauling Landfill ("WHL") and Waste Hauling on behalf of the State and at the request of the Agency, pursuant to the Act.

2. During the times relevant to the complaint, Bell, a California corporation registered to conduct business in Illinois, owned and operated a helmet manufacturing plant in Rantoul, Illinois ("the Plant").

3. During the times relevant to the complaint, WHL owned and operated a landfill located west of Decatur, Illinois just north of Rockspring Road, approximately two miles west of Wyckles Road in the northwest quarter of Section 26, Township 16 North, Range 1 East ("the landfill").

4. The State alleges that from April 1991 through May 1992, Bell sent shipments of waste including paint sludge to the landfill. Most of the drums that Bell sent to WHL were crushed releasing much of the contents. Additionally, the State alleges that on or about April 9, 1992, certain drums were sent to the landfill, a portion of which was subsequently determined to be hazardous and contained higher than allowable levels of methyl ethyl

ketone and benzene. (Complaint, Count I at paragraphs 11-15).

5. The State alleges that Bell violated subsection 21(f)(1) of the Act, 415 ILCS 5/21 (1994), and 35 Ill. Adm. Code 703.121(b) (1993), or failed to obtain a Resource Conservation and Recovery Act ("RCRA") permit for a hazardous waste container storage area at its plant. (Complaint, Count I at paragraphs 23-31).

6. In 1994, Bell voluntarily closed the waste storage area at its plant. This closure was conducted with Agency oversight and approval.

7. The State alleges that Bell:

- a. Violated subsection 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1994), and 35 Ill. Adm. Code 724.115(e)-(b) (1993), or failed to perform routine inspections of its facility and to prepare written documentation of facility inspections;
- b. Violated subsection 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1994), and 35 Ill. Adm. Code 724.173(a)-(b) (1993), or failed to maintain appropriate operating records and records on hazardous waste received for each RCRA unit and the methods and dates of hazardous waste disposal for each waste located at each RCRA unit;
- c. Violated subsection 21(f)(2) of the Act (415 ILCS 5/21(f)(2) (1994), and 35 Ill. Adm. Code 724.212(a)(1) (1993), or failed to have a closure plan for hazardous waste management units;

- d) Violated subsection 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1994), and 35 Ill. Adm. Code 724.242(a) (1993), or failed to have a written closure cost estimate; and
- e) Violated subsection 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1994), and 35 Ill. Adm. Code 724.243 (1993), or failed to have financial assurance for its facility. (Complaint, Count II at paragraphs 30-43).

8. The State alleges that Bell:

- a) Violated subsection 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (1994), and 35 Ill. Adm. Code 703.121(a) (1993), or operated an unpermitted container storage area;
- b) Violated subsection 21(i) of the Act, 415 ILCS 5/21(i) (1994), and 35 Ill. Adm. Code 722.111 (1993) or failed to perform a hazardous waste determination of its solid wastes;
- c) Violated subsection 21(i) of the Act, 415 ILCS 5/21(i) (1994), and 35 Ill. Adm. Code 722.112(c) (1993), or shipped hazardous waste to an unpermitted facility;
- d) Violated subsection 21(i) of the Act, 415 ILCS 5/21(i) (1994), and 35 Ill. Adm. Code 722.120(b) (1992), or failed to indicate a permitted treatment storage or disposal facility on a manifest used for shipment of hazardous waste;
- e) Violated subsection 21(i), 415 ILCS 5/21(i) (1994), and 35 Ill. Adm. Code 722.132(b) (1993), or failed to properly mark each container of hazardous waste;

- f) Violated subsection 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1994), and 35 Ill. Adm. Code 724.113(a) (1993), or failed to perform a detailed chemical and physical analysis on waste generated at its facility;
- g) Violated subsection 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1994), and 35 Ill. Adm. Code 724.115(d) (1993), or failed to maintain an inspection log at its facility; and
- h) Violated subsection 21(f)(2) of the Act, 415 ILCS 5/21(f)(2) (1994), and 35 Ill. Adm. Code 724.174(a) (1993), or failed to provide records to Agency personnel (Complaint, Count III).

9. The State alleges that Bell generated and arranged for Waste Hauling to transport sludge paint waste to the landfill that was subsequently determined to be hazardous waste as defined by section 3.15 of the Act, 415 ILCS 5/3.15 (1994). (Complaint, Count VII).

10. The State alleges that Waste Hauling violated 35 Ill. Adm. Code 723.111 and 723.121(a)(1) (1993), or accepted hazardous waste from Bell without any signed manifests accompanying the waste. (Complaint, Count VII).

11. Bell denies the State's allegations, but for the purposes of settlement and compromise only, has agreed to entry of this stipulation and proposal for settlement. In addition, Bell denies any violations of the Act and the Illinois Administrative Code (the "Code") alleged by the State against WHL and Waste Hauling, to the degree that any such violations might provide a basis for a finding by any agency or court that Bell violated any provisions of the Act or the Code (Complaint, Counts IV-VII).

II.

IMPACT ON THE PUBLIC RESULTING FROM NON-COMPLIANCE

Subsection 33(c) of the Act, 415 ILCS 5/33(c) (1994), provides:

- c. In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:
 - 1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
 - 2. the social and economic value of the pollution source;
 - 3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
 - 4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
 - 5. any subsequent compliance.

In response to these factors, the parties state as follows:

- 1. Bell's above-detailed alleged violations impacted the complainant in that the shipment of an unknown quantity of drums containing hazardous waste to the landfill site may have resulted in a threat to public health and safety in the immediate vicinity of the landfill site. However, the immediate vicinity is rural and sparsely populated, which minimized these impacts.
- 2. The parties agree that Bell's facility is of economic and social value to the surrounding community, Bell's employees, and the customers of Bell.
- 3. The parties agree that Bell's facility is suitable to the area in which it is located, based upon the presumption that the facility is operated in compliance with the Act.

II.

IMPACT ON THE PUBLIC RESULTING FROM NON-COMPLIANCE

Subsection 33(c) of the Act, 415 ILCS 5/33(c) (1994), provides:

- c. In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:
 - 1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
 - 2. the social and economic value of the pollution source;
 - 3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
 - 4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
 - 5. any subsequent compliance.

In response to these factors, the parties state as follows:

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2. The parties agree that Bell's facility is of economic and social value to the surrounding community, Bell's employees, and the customers of Bell.

3. The parties agree that Bell's facility is suitable to the area in which it is located, based upon the presumption that the facility is operated in compliance with the Act.

4. The parties agree that it will be technically difficult and economically prohibitive for Bell to remove all of the drums in question from the landfill.

5. Bell has taken steps to remedy the above-cited instances of non-compliance and remove as many drums as possible from the landfill site.

III.

DETERMINATION OF APPROPRIATE CIVIL PENALTY

Subsection 42(h) of the Act, 415 ILCS 5/42(h) (1994), provides:

- h. In determining the appropriate civil penalty to be imposed under subdivisions (a), (b)(1), (b)(2) or (b)(3) of this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:
 - 1. the duration and gravity of the violation;
 - 2. the presence or absence of due diligence on the part of the violator in attempting to comply with the requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
 - 3. any economic benefits accrued by the violator because of delay in compliance with requirements;
 - 4. the amount of monetary penalty which will serve to deter further violations by the violator and to otherwise aid in enhancing voluntary compliance with this Act by the violator and any other persons similarly subject to the Act; and
 - 5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the violator.

In response to these factors, the parties state as follows:

- 1. Bell's alleged inadequate hazardous waste determinations contributed to the improper disposal of hazardous waste at WHL's site. Additionally, allegedly Bell allowed hazardous waste to be transported on Illinois highways without proper labeling. Since there is always a potential for traffic accidents, the failure to properly label hazardous waste drums

caused a major potential of harm to any person who may have responded to the accident because that person may rely on the transportation documents and drum labels that stated the material was a non-hazardous waste. In addition, Bell was required to have a RCRA permit for the hazardous waste management units from at least January 27, 1993. The duration of this violation is at least thirty-five days.

2. Bell has shown diligence by promptly submitting a closure plan for its waste storage units, and by agreeing to properly dispose of the material contained in the roll-off box since April 1992.

3. Bell benefitted by approximately \$26,500 for improper disposal of hazardous waste at WHL.

4. A civil penalty of sixty-nine thousand four hundred and twenty-seven dollars (\$69,427.00) will deter Bell from further violations of this type. Further, this penalty will aid in the Agency's enforcement of the Act and the Board's Rules and Regulations as against other persons similarly subject to the Act.

5. There are no known adjudicated violations of the Act by the violator.

IV.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This stipulation and proposal for settlement in no way affects the responsibility of the respondent to comply with any other federal, state or local regulations, including, but not limited to, the Act, 415 ILCS 5/1 et seq. (1994), and the Board's Rules and Regulations, 35 Ill. Adm. Code, Subtitles A through H.

V.

JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Act.

VI.

APPLICABILITY AND AUTHORIZATION

This stipulation and proposal for settlement shall apply to and be binding upon the complainant, the Agency, Bell, and the officers, agents, employees, servants, successors and assigns thereof. The undersigned representatives for each party certify that they are fully authorized to enter into the terms and conditions of this stipulation and proposal for settlement and legally bind them to it.

VII.

COVERED MATTERS

This stipulation and proposal for settlement covers all claims asserted in the complaint filed herein concerning violations of the Act, 415 ILCS 5/1 et seq. (1994), and the regulations promulgated thereunder. Covered matters do not include:

- i) Possible Criminal liability;
- ii) Claims based on defendant's failure to meet the requirements of this consent order;
- iii) Liability for future violation of state, local, federal, and common laws and/or regulations;
- iv) Private party common law or statutory claims for contribution and/or response costs arising from the facts stipulated herein; and
- v) Any future liability for natural resource damage or for removal, cleanup, or remedial action as a result of a release of hazardous substances or the liability of defendant under section 22.2(f) of the Act, 415 ILCS 5/22.2(f) (1994), or under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Sections 9401-9675).

VIII.

NO ADMISSION OF LIABILITY

This stipulation and proposal for settlement is entered into for the purpose of settling and compromising disputed claims without the expense of contested litigation. By entering into this stipulation and proposal for settlement and complying with its terms, Bell and any successor or assign does not admit any fact, statement, legal conclusion, or past or present

liability or violation of any law or regulation, and this document shall not be interpreted as including any such admission.

IX.

ENTIRE AGREEMENT

This stipulation and proposal for settlement constitutes the entire understanding of the parties with respect to its subject matter.

X.

PROPOSAL FOR SETTLEMENT

1. Bell shall cease and desist from violations of the Act, 415 ILCS 5/1 et seq. (1994), the Board's rules and regulations 35 Ill. Adm. Code Subtitles A through H (1993) and any federal laws and regulations except as specifically provided for in this stipulation.

2. Within forty-five (45) days after the Board's approval of this stipulation and proposal for settlement, Bell shall pay the State sixty-nine thousand four hundred and twenty-seven dollars (\$69,427.00).

3. The payment provided for in paragraph 2 of this section shall be by certified check or money order payable to the Treasurer of the State of Illinois, designated for deposit in the Environmental Protection Trust Fund.

The check shall indicate the name, number of the case, and Bell's federal employer identification number ("FEIN") and shall be delivered to:

Environmental Protection Trust Fund
Fiscal Services Division
Illinois Environmental Protection Agency
Post Office Box 19276
Springfield, Illinois 62794-9276

A copy of the payment transmittal should be simultaneously submitted to:

Office of the Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706

For purpose of payment and collection, Bell may be reached through its registered agent at the following address:

Mr. Howard Allen Kosick
Registered Agent, Bell Sports, Inc.
Route 136 E
Rantoul, Illinois 61866

4. Bell shall properly dispose of the materials contained in the on-site roll-off box to a facility authorized to accept or dispose of hazardous wastes within 60 days of receiving written notice from the State that access to the roll-off box has been obtained.

5. Final approval of this stipulation and proposal for settlement and compliance herewith shall constitute full accord, satisfaction, and settlement of all civil liability of Bell arising out of matters addressed in the complaint as specified in Section VII (covered matters) of this stipulation and proposal for settlement.

6. In consideration of the payments by Bell of \$69,427.00 and disposal by Bell of the material contained in the on-site roll-off box, the State releases, waives and discharges Bell from any claims, liabilities, demands, orders or penalties as stated in Section VII (covered matters) of this stipulation and proposal for settlement. This release from liability has no effect on parties that are not signatories to the document.

WHEREFORE, the parties, by their representative, request the Board to approve and adopt the foregoing stipulation and proposal for settlement.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,

JAMES E. RYAN
ATTORNEY GENERAL

MATTHEW J. DUNN, Chief
Environmental Enforcement Division

DATED: 3/09/96

BY: 

Thomas Davis, Chief
Environmental Bureau
Assistant Attorney General

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

DATED: 3/1/96

BY: 

Joseph E. Svoboda
General Counsel
Division of Legal Counsel

BELL SPORTS, INC.

DATED: 1/5/96

BY: 

Neal R. DeDecker
General Manager

FEIN 36-3671789

bellstp7
AH/lbp

CERTIFICATE OF SERVICE

I hereby certify that I did on the 23rd day of August, 1996, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT, and STIPULATION AND PROPOSAL FOR SETTLEMENT

To: Mike Wallace
 Chief Hearing Officer
 Illinois Pollution Control Board
 600 South Second Street
 Springfield, Illinois 62704

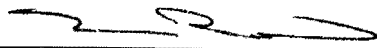
Greg Richardson
Illinois Environmental Protection Agency
2200 Churchill Road
Springfield, Illinois 62794-9276

Mr. Stephen O. Willoughby
Willoughby, Latshaw & Hopkins, P.C.
502 West Prairie Avenue
P.O. Box 1336
Decatur, Illinois 62525

Robert M. Olian
Byron F. Taylor
Sidley & Austin
One First National Plaza
Chicago, Illinois 60603

and the original and ten true and correct copies of the same foregoing instruments on the same date by First Class Mail with postage thereon fully prepaid

To: Dorothy Gunn, Clerk
 Illinois Pollution Control Board
 State of Illinois Center
 100 W. Randolph
 Chicago, IL 60601



THOMAS DAVIS
Assistant Attorney General
Environmental Bureau/Springfield