

ILLINOIS POLLUTION CONTROL BOARD
April 21, 2011

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 10-9
) (Enforcement - Land, Cost Recovery)
WASTE HAULING LANDFILL, INC.,)
JERRY CAMFIELD, A. E. STALEY)
MANUFACTURING CO., ARAMARK)
UNIFORM SERVICES, INC., BELL)
SPORTS, INC., BORDEN CHEMICAL CO.,)
BRIDGESTONE/FIRESTONE, INC.,)
CLIMATE CONTROL, INC.,)
CATERPILLAR, INC., COMBE)
LABORATORIES, INC., GENERAL)
ELECTRIC RAILCAR SERVICES)
CORPORATION, P & H)
MANUFACTURING, INC., TRIPLE S)
REFINING CORPORATION, TRINITY RAIL)
GROUP, INC., and BORGWARNER, INC)
)
Respondents.)

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

The Board has received several stipulations and proposals for settlement in this proceeding and for the reasons below, the Board accepts the parties' stipulations and proposed settlements. Due to the numerous respondents in this proceeding the Board will provide some background regarding the case.

BACKGROUND

On July 30, 2009, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against Waste Hauling Landfill, Inc., Jerry Camfield, A. E. Staley Manufacturing Co., Aramark Uniform Services, Inc., Bell Sports, Inc., Borden Chemical Co., Bridgestone/Firestone, Inc., Climate Control, Inc., Caterpillar, Inc., Combe Laboratories, Inc., General Electric Railcar Services Corporation, P & H Manufacturing, Inc., Trinity Rail Group, Inc., Tripple S Refining Corporation and Zexel Illinois, Inc.. The complaint concerns Waste Hauling Landfill, Inc.'s former landfill facility located in the Northwest Quarter of the Northwest Quarter of Section 26, Township 16 North, Range 1 East (Blue Mound Township), Macon County. On August 6, 2009, the Board accepted that complaint.

On January 22, 2010, the People filed an amended complaint, and a second amended complaint on November 3, 2010. Also, on September 16, 2010, the Board granted a motion to voluntarily dismiss Archer Daniels Midland, Inc and to correct a misnomer, substituting Borg Warner, Inc for Zexel Illinois, Inc..

STIPULATIONS AND PROPOSALS FOR SETTLEMENT

On March 11, 2011, the People and Aramark Uniform & Career Apparel, LLC (Aramark), Bell Sports Inc. (Bell Sports), Caterpillar Inc. (Caterpillar), and General Electric Railcar Services Corporation (GE Railcar) (collectively, Parties to the Stipulation) filed a stipulation and proposal for settlement. On March 15, 2011, the People and P & H Manufacturing, Inc. (P & H) filed a stipulation and proposal for settlement.

Waste Hauling Landfill, Inc., Jerry Camfield, A. E. Staley Manufacturing Co., Borden Chemical Co., Bridgestone/Firestone, Inc., Climate Control, Inc., Combe Laboratories, Inc., Triple S Refining Corporation, Trinity Rail Group, Inc., and Borg Warner, Inc are not parties to these stipulations.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2008); 35 Ill. Adm. Code 103. In this case, the People allege in the one-count second amended complaint that the Parties to the Stipulation and P & H each arranged for the disposal of one or more hazardous substances at the Waste Hauling Landfill (Landfill) located in the Northwest Quarter of the Northwest Quarter of Section 26, Township 16 North, Range 1 East (Blue Mound Township), in Macon County. The People further allege that the Parties to the Stipulation are each a responsible party as described in Section 22.2(f)(1), (2), or (3) of the Environmental Protection Act (Act) (415 ILCS 5/22.2(f)(1), (2), or (3) (2008)) and are each liable for past, present, and future removal costs, as defined by the Act, incurred by the state resulting or arising out of the releases and threatened releases at the Landfill.

On March 11, 2011, the People and the Parties to the Stipulation 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) (2008)). And on March 15, 2011, the People and P & H 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) (2008)). These filings are authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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 stipulations, proposed settlements, and requests for relief. The newspaper notice was published in the *Decatur Herald & Review* on March 19, 2011. 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) (2008); 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 the operations of the Parties to the Stipulation. 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) (2008)), 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) (2008)), which may mitigate or aggravate the civil penalty amount. Under the March 11, 2011 proposed stipulation, the Parties to the Stipulation do not admit to the violations but agree pay: 1) Aramark agrees to pay removal reimbursement costs of \$4,750 and litigation reimbursement costs of \$250; 2) Bell Sports agrees to pay removal reimbursement costs of \$15,120 and litigation reimbursement costs of \$500; 3) Caterpillar agrees to pay removal reimbursement costs of \$16,000 and litigation reimbursement costs of \$950; and, 4) GE Railcar agrees to pay removal reimbursement costs of \$1,200 and litigation reimbursement costs of \$300. Under the March 15, 2011 stipulation, P & H does not admit the violations but agrees to pay removal reimbursement costs of \$300.60 and litigation reimbursement costs of \$150. The People, the Parties to the Stipulation and P & H have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.¹

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Aramark must pay a civil penalty of \$4,750, Bell Sports must pay a civil penalty of \$15,120, Caterpillar must pay a civil penalty of \$16,000, GE Railcar must pay a civil penalty of \$1,200, and P & H must pay a civil penalty of \$300.60 no later than May 23, 2011, which is the first business day following the 30th day after the date of this order. The Parties to the Stipulation must pay these civil penalties by corporate check or money order payable to the Illinois Environmental Protection Agency for deposit into the Hazardous Waste Fund. The case name, case number, Bureau of Land Site number (115810001) and time code (LP52H56), and federal tax identification number must appear on the face of the corporate check or money order.
3. The Parties to the Stipulation and P & H must submit payment of these civil penalties via first class mail to:

¹ The case against Waste Hauling Landfill, Inc., Jerry Camfield, A. E. Staley Manufacturing Co., Borden Chemical Co., Bridgestone/Firestone, Inc., Climate Control, Inc., Combe Laboratories, Inc., Triple S Refining Corporation, Trinity Rail Group, Inc., and Borg Warner continues. As the Board today accepts the stipulation and proposed settlement involving the People and Aramark, Bell Sports, Caterpillar, GE Railcar, and P & H filed stipulations and proposals for settlement, the caption of subsequent orders issued in this docket will not include Aramark, Bell Sports, Caterpillar, GE Railcar, and P & H.

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

The Parties to the Stipulation and P & H must send a copy of the corporate check or money order and any transmittal letter to:

Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

4. Aramark must also pay a civil penalty of \$250, Bell Sports must also pay a civil penalty of \$500, Caterpillar must also pay a civil penalty of \$950, GE Railcar must also pay a civil penalty of \$300, and P & H must also pay a civil penalty of \$150 no later than May 23, 2011, which is the first business day following the 30th day after the date of this order. The Parties to the Stipulation and P & H must pay these civil penalties by corporate check or money order payable to the "Attorney General's State Projects and Court Ordered Distribution Fund" for deposit into the "801 Fund". The case name, case number, and federal tax identification number must appear on the face of the corporate check or money order.
5. The Parties to the Stipulation and P & H must submit payment of these civil penalties via first class mail to:

Environmental Bureau
Illinois Attorney General's Office
500 South Second Street
Springfield, Illinois 62706

6. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).

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) (2008); *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 Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on April 21, 2011, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish at the end.

John Therriault, Assistant Clerk
Illinois Pollution Control Board