

ILLINOIS POLLUTION CONTROL BOARD
November 17, 2011

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 10-9
) (Enforcement - Water)
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,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by D. Glosser):

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., Triple 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. The people and Borg Warner, Inc. (Borg Warner) now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.¹

¹ The Board previously accepted stipulated settlements from Aramark Uniform & Career Apparel, LLC, Bell Sports Inc., Caterpillar Inc., General Electric Railcar Services Corporation, and P & H Manufacturing, Inc., *see People v. Waste Hauling Landfill, Inc. et al.*, PCB 10-9 (Apr. 21, 2011). On September 8, 2011, the Board granted a motion to dismiss Triple S Refining Corporation, *see People v. Waste Hauling Landfill, Inc. et al.*, PCB 10-9 (Sept. 8, 2011). On October 20, 2011, the Board directed the Clerk to publish notice of a settlement with Climate

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), 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 (2010); 35 Ill. Adm. Code 103. In this case, the People allege in the one-count second amended complaint that BorgWarner arranged for the disposal of one or more hazardous substances at the Waste Hauling Landfill. The People further allege that BorgWarner is a responsible party as described in Section 22.2(f)(1), (2), or (3) of the Act (415 ILCS 5/22.2(f)(1), (2), or (3) (2010)) and is 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 September 30, 2011, the People and Borg Warner 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) (2010)). Waste Hauling Landfill, Inc., Jerry Camfield, A. E. Staley Manufacturing Co., Borden Chemical Co., Bridgestone/Firestone, Inc., Climate Control, Inc., and Trinity Rail Group, Inc. are not parties to this stipulation. This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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 *Decatur Herald & Review* on October 8, 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) (2010); 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 Borg Warner'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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Borg Warner admits to the jurisdictional allegations and neither admits nor denies the factual allegations related to the violations the alleged violation. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2010)), which may mitigate or aggravate the civil penalty amount. Borg Warner agrees to pay \$39,000 for reimbursement of removal costs and \$250.00 in attorney's fees. The People and Borg Warner 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.

Control, Inc.. *See* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (Oct. 20, 2011). On November 3, 2011, the Board accepted a stipulated settlement with Combe Laboratories, Inc. *see* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (No. 3, 2011)

ORDER

1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Borg Warner must pay \$39,000.00 and attorney's fees of \$250.00 no later than December 19, 2011, which is the first business day following the 30th day after the date of this order. Borg Warner must pay the civil penalty by certified check or money order. The case name, case number, and Borg Warner's federal tax identification number must appear on the face of the certified check or money order.
3. The \$39,000 civil penalty payment required by the Stipulation to be made to Illinois Environmental Protection Agency shall be made by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Hazardous Waste Fund. The Payment shall be sent by first class mail and delivered to:

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

The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order. A copy of each certified check or money order and any transmittal letter shall be sent to the Attorney General at the address below.

The \$250 payment of attorney's fees required by the Stipulation to be made to the Attorney General shall be made by certified check or money order payable to the "Attorney General's State Projects and Court Ordered Distribution Fund" and designated for deposit in the "801 Fund." Such payment may be by certified check or money order and shall be sent by first class mail and delivered to:

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

The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order.

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2010)) at the rate

set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).

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) (2010); *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 November 17, 2011, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board