

ILLINOIS POLLUTION CONTROL BOARD

March 7, 2013

(Corrected)

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., ARCHER)
DANIELS MIDLAND, INC., 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.)

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., Archer Daniels Midland, Inc., 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 Section 26, Township 16 North, Range 1 East (Blue Mound Township), Macon County (Landfill).

On November 3, 2010, the People filed a second amended complaint, which the Board accepted for hearing by order of December 2, 2010. The case has not been to hearing. Under the Act (415 ILCS 5 (2010)), 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 (2010); 35 Ill. Adm. Code 103. In the second amended complaint, the People allege that respondents are responsible parties under Section 22.2(f)(1), (f)(2), or (f)(3) of the Act (415 ILCS 4/22.2(f)(1), (f)(2), (f)(3) (2010)) and seek an award of past and future removal costs incurred by the Illinois Environmental Protection Agency (Agency) as a result of the releases and

threatened releases of hazardous substances at the Landfill. Section 22.2(i) of the Act states that “costs and damages provided for in this Section may be imposed by the Board in an action brought before the Board in accordance with Title VIII of this Act” 415 ILCS 5/22.2(i) (2010).

The People and Trinity Rail Group, Inc. (Trinity) now seek to settle without a hearing. For the reasons below, the Board accepts the parties’ stipulation and proposed settlement.

The People and Trinity Rail Group, LLC (Trinity) now seek to settle without a hearing. Waste Hauling Landfill Inc. and Jerry Camfield are not a party to the stipulation.

The Board already accepted stipulations and proposals for settlement involving:

- 1) Bridgestone Americas Tire Operations, LLC, formerly known as Bridgestone/Firestone, Inc., Momentive Specialty Chemicals Inc., formerly known as Borden, Inc., A.E. Staley Manufacturing Co., now known as Tate & Lyle Ingredients Americas LLC, *see* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (Sept. 20, 2012)
- 2) 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),
- 3) Combe Laboratories, Inc., *see* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (Nov. 3, 2011),
- 4) Borg Warner, Inc., *see* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (Nov. 17, 2011), Borg Warner, Inc. was substituted for Zexel Illinois, Inc. *See* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (Sept. 16, 2010).
- 5) Climate Control, Inc., *see* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (Dec. 1, 2011).

The Board also granted the People’s motions to voluntarily dismiss Triple S Refining Corporation, *see* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (Sept. 8, 2011), and Archer Daniels Midland, Inc., *see* People v. Waste Hauling Landfill, Inc. et al., PCB 10-9 (Sept. 16, 2010).

On January 10, 2013, the People and Trinity 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)). 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 the *Decatur Herald & Review* on February 9, 2013. 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 Trinity'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. Under the proposed settlement stipulations, Trinity does not affirmatively admit the allegations but agrees to pay a civil penalty of \$30,000 and an additional \$750 for costs associated with this litigation. The People and Trinity have satisfied Section 103.302, and the Board therefore 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. Trinity Rail Group, Inc. must pay a sum of \$30,000 to the Agency no later than April 8, 2013, which is the first business day following the 30th day after the date of this order. Trinity must make payment to the Agency by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Hazardous Waste Fund. The case name, case number, and Trinity's or TCMC, Inc.'s federal tax identification number must appear on the face of the certified check or money order.
3. Trinity must submit the \$30,000 payment by first class mail to:

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

Trinity must send a copy of the certified check or money order, and any transmittal letter to:

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

4. Trinity Rail Group, Inc. must pay a sum of \$750 to the Illinois Attorney General no later than March 8, 2013, which is the first business day following the 30th day after the date of this order. Trinity must make payment to the Attorney General by certified check or money order payable to the "Attorney General's State Project and Court Ordered Distribution Fund." The case name, case number, and Trinity's or TCMC, Inc.'s federal tax identification number must appear on the face of the certified check or money order.
5. Trinity must submit the \$750 payment by 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) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
7. Trinity must cease and desist from the 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) (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 T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 7, 2013 by a vote of 4-0.



John T. Therriault, Assistant Clerk
 Illinois Pollution Control Board