

**RECEIVED**  
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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD    APR 03 2008

STATE OF ILLINOIS  
Pollution Control Board

IN THE MATTER OF:

PETITION OF BIG RIVER ZINC  
CORPORATION FOR AN ADJUSTED  
STANDARD UNDER 35 ILL. ADM. CODE  
720.131(c)

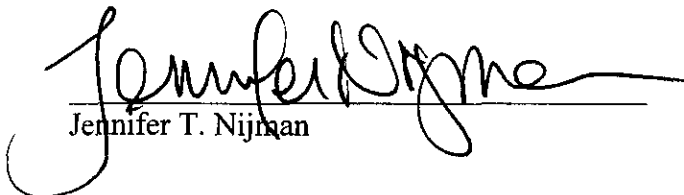
AS 08-009  
(Adjusted Standard-RCRA)

NOTICE OF FILING

To:    Pollution Control Board, Attn: Clerk  
      100 West Randolph Street  
      James R. Thompson Center, Suite 11-500  
      Chicago, IL 60601-3218

Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Pollution Control Board the attached Motion to Incorporate Documents by Reference of Big River Zinc Corporation, a copy of which is herewith served upon you.

  
Jennifer T. Nijman

Date: April 3, 2008

Jennifer T. Nijman  
Nijman Franzetti LLP  
10 S. LaSalle Street, Suite 3600  
Chicago, IL 60603  
312 251 5255

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MOTION TO INCORPORATE DOCUMENTS BY REFERENCE

Big River Zinc Corporation ("BRZ"), by its undersigned counsel, requests that the Pollution Control Board ("Board") incorporate materials from the record of another Board docket into this proceeding pursuant to 35 Ill. Adm. Code 101.306. In support of its motion, BRZ states as follows:

1. On April 1, 2008, BRZ filed a Petition for Adjusted Standard requesting an amendment to its existing adjusted standard ("AS-99-3") to revise Condition 2.a (1).
2. Condition 2.a (1) to AS-99-3 requires BRZ to conduct its two-step process of (i) washing zinc oxide to remove inorganic salts, and (ii) conducting electrolytic refining, both at BRZ's refinery in Sauget, Illinois. BRZ requests that Condition 2.a (1) be revised to allow BRZ to continue its process of accepting partially recovered zinc oxide from suppliers and washing the zinc oxide at BRZ's refinery in Sauget, Illinois, but then to *either* (i) continue the electrolytic refining process at BRZ's facility as described in AS-99-3, (ii) sell the washed zinc oxide to third parties for further refining, *or* (iii) return the *washed zinc oxide* to the suppliers for sale to another refiner. In each case, the final

product is a valuable, reclaimed zinc product. This revised Condition does not alter the previous substance or findings of the Board.

3. As support for its request, BRZ references the Opinion and Order, Petition for Adjusted Standard and supporting materials in AS-99-3. The Board's review of materials and analysis of what constitutes "solid waste" in AS-99-3 applies to the instant proceeding because the material found to be exempt from the solid waste determination (zinc oxide dust processed in High Temperature Metals Recycling) has not changed. BRZ will continue to use that same material in its washing process.
4. BRZ received a second adjusted standard from the Board for its facility in November 2006. AS-06-4. In that case, the Board found that electric arc furnace dust, even without HTMR treatment, was not a solid waste for the purposes of further refinement in new leach, solvent extraction, electrowinning (LSXEW) technology. BRZ was unable to install the proposed LSXEW process due to rising costs of the technology. Portions of BRZ's petition and the Board's Opinion and Order are nevertheless relevant to this proceeding because the documents include updated descriptions of the BRZ facility and the zinc market.
5. To the extent the Board seeks to review or reassess the solid waste determination for EAF zinc oxide in this case in order to amend Condition 2.a (1), the prior Board proceedings AS-99-3 and AS-06-4 provide all necessary support and detail. The Board previously found the materials to be credible and authentic and there was opportunity for cross-examination of the matters asserted.
6. BRZ requests the following materials be incorporated in the instant case:
  - a. Petition for Adjusted Standard and supporting materials AS-99-3.

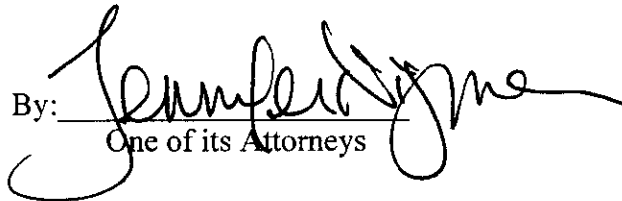
- b. IEPA Response and BRZ's Reply to the Petition in AS-99-3.
- c. Opinion and Order AS-99-3.
- d. Transcript of proceedings.
- e. Petition for Adjusted Standard and supporting materials in AS-06-4.
- f. Amended Petition for Adjusted Standard
- g. Opinion and Order in AS-06-4.

7. Four copies of the material to be incorporated are attached hereto for filing, as required by 35 Ill. Adm. Code 101.306(b).

WHEREFORE, BRZ requests that the Board incorporate by reference materials from the proceedings AS-99-3 and AS-06-4.

Respectfully submitted,

Big River Zinc Corporation

By:   
One of its Attorneys

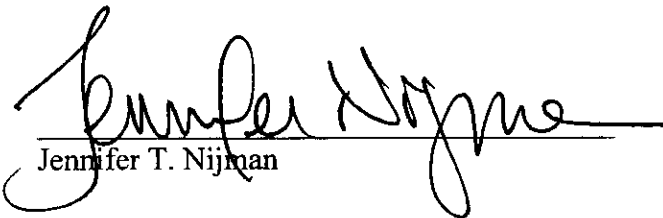
Jennifer T. Nijman  
Nijman Franzetti LLP  
10 S. LaSalle St, Suite 3600  
Chicago, Illinois 60603

CERTIFICATE OF SERVICE

I, the undersigned, certify that I have served the attached Motion to Incorporate Documents by Reference by hand delivery to the Clerk and by first class mail upon the IEPA:

Pollution Control Board, Attn: Clerk  
100 West Randolph Street  
James R. Thompson Center, Suite 11-500  
Chicago, IL 60601-3218

Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 N. Grand Avenue East  
P.O. Box 19276  
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