

ILLINOIS POLLUTION CONTROL BOARD

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PEOPLE OF THE STATE OF)
ILLINOIS,)
)
 Complainant,)
)
 vs) No. PCB 97-010
)
 ALLSTEEL, INC.)
)
 Respondent.)

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The following is the transcript of a hearing held in the above-entitled matter, taken stenographically by Geanna M. Iaquina, CSR, a notary public within and for the County of Cook and State of Illinois, before Mr. John Burds, Hearing Officer, at 1300 South Broadway, Montgomery, Illinois, on the 19th day of November, 1997, A.D., scheduled to commence at 2:00 o'clock p.m., commencing at 2:10 p.m.

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A P P E A R A N C E S :

HEARING TAKEN BEFORE:
ILLINOIS POLLUTION CONTROL BOARD
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601
(312) 814-4925
BY: MR. JOHN BURDS

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ILLINOIS POLLUTION CONTROL MEMBERS PRESENT:

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Ms. Deborah L. Feinen

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY MEMBERS
PRESENT:

Mr. Donald L. Gimbel

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NO EXHIBITS MARKED

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THE HEARING OFFICER: Let the record reflect that today's date is November 19th, 1997. It's approximately ten after 2:00 p.m. on that date.

I am Jack Burds. I am a hearing officer with the Illinois Pollution Control Board. I will be conducting the hearing in Pollution Control Board 97-010, the parties being the People of the State of Illinois as complainant versus Allsteel, Incorporated as respondent.

I would note for the record that members of the public are present. I would like at this time the parties' counsel if they are present to identify themselves for the record.

MR. MACKOFF: Mike Mackoff, M-a-c-k-o-f-f, assistant attorney general on behalf of the complainant.

THE HEARING OFFICER: And, Mr. Mackoff, do you have anybody with you today?

MR. MACKOFF: Mr. Hearing Officer, we have Don Gimbel from the Illinois Environmental Protection Agency.

THE HEARING OFFICER: Thank you.

For Allsteel.

MS. LANDOW-ESSER: Janine Landow-Esser, J-a-n-i-n-e, L-a-n-d-o-w, dash, E-s-s-e-r, with the law

firm of Holleb & Coff for Allsteel.

THE HEARING OFFICER: Okay. Are there any

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other attorneys representing parties that would like to enter an appearance at this time?

MR. EDWARDS: I represent the Village of Montgomery, but the Village of Montgomery is not a party.

THE HEARING OFFICER: I understand. Would you state your name, sir?

MR. EDWARDS: James Edwards.

THE HEARING OFFICER: And you represent?

MR. EDWARDS: The Village of Montgomery.

THE HEARING OFFICER: Thank you. Okay. Again, I would note that members of the public are present.

I'm going to go through the litany of the enforcement process. At this time, would anybody like to make a statement on the record, an opening statement?

Mr. Mackoff?

MR. MACKOFF: Mr. Hearing Officer, do you mind if I do it from here or do you --

THE HEARING OFFICER: Wherever is convenient for the court reporter.

MR. MACKOFF: The court reporter. If you'd like, I can stand out here.

Good morning, Mr. Hearing Officer. On July 11th, 1996, the State of Illinois filed a 14-count complaint against Allsteel, Incorporated for numerous RCRA

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violations at their facility located on Allsteel Drive in Kane County, Illinois.

The violations cited in the complaint occurred on -- from August 20th, 1993, through January 20th, 1994.

On June 25th, 1997, the parties entered a negotiated stipulation, a proposal for settlement, in front of the Board. As noted in the documents, the parties have come to this agreement voluntarily.

The respondent does not admit to the factual or legal allegations made by the complainant and that in settlement of the case, the company will make a civil penalty payment to the State of Illinois.

It is also noted in the stipulation the fact that the parties posit the fact that Allsteel has shut down its operations in the State of Illinois and has moved elsewhere.

At this point, we would -- we are asking the Board to approve the stipulation as negotiated by the parties and without any -- I guess without any further statement.

THE HEARING OFFICER: I am correct, am I not,

Mr. Mackoff, that that document has been filed with the Board and is on file with the Board now?

MR. MACKOFF: Yes, Mr. Hearing Officer.

THE HEARING OFFICER: And has not been amended

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or changed in any way?

MR. MACKOFF: It has not.

THE HEARING OFFICER: Ms. Landow-Esser, do you have any objection to that, or is that your understanding?

MS. LANDOW-ESSER: That's my understanding, and I would simply second the fact that we support the settlement and would like to see it finalized.

THE HEARING OFFICER: Mr. Mackoff, anything else that the state would like to add?

MR. MACKOFF: No. Actually, one -- just one small, I guess, bookkeeping matter. The -- I noticed this as I was preparing for the hearing. In Section 4C where it just repeats the alleged violations in the complaint, I noticed that Count 14 there is -- it was actually a 14-count complaint. Count -- the allegations of Count 14 were left out of this list. It is a typographical error, and it has no bearing on the substance of the stipulation.

THE HEARING OFFICER: Ms. Landow-Esser?

MS. LANDOW-ESSER: I can't remember what Count 14 was, but I don't think it will have any bearing.

MR. MACKOFF: That's the stipulation. I'll give you the --

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MS. LANDOW-ESSER: Right. Fourteen is not in here, right?

THE HEARING OFFICER: Am I correct, Mr. Mackoff, that's just -- this is just repeating the --

MR. MACKOFF: Exactly, your Honor. It has no substantive effect at all. It is just a drafting error that I caught this morning.

THE HEARING OFFICER: Okay. Noted.

MS. LANDOW-ESSER: I can't really respond, although assuming it's as counsel suggested, it wouldn't bear on the --

THE HEARING OFFICER: Well, let me ask you this, Ms. Landow-Esser. Your understanding was that it was a 14-count complaint?

MS. LANDOW-ESSER: That's my recollection. It's been quite a while since we had this in front of us.

THE HEARING OFFICER: Well, why don't we do this?

MS. LANDOW-ESSER: Don, do you have --

THE HEARING OFFICER: If there is --

MS. LANDOW-ESSER: You've got -- that was the complaint.

MR. MACKOFF: This was the complaint. It's file stamped.

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MS. LANDOW-ESSER: Yeah.

THE HEARING OFFICER: I have a copy of the complaint.

MS. LANDOW-ESSER: Yeah. I just didn't bring it with me. I brought the stipulation.

THE HEARING OFFICER: Do you want a moment to verify that, Ms. Landow-Esser?

MS. LANDOW-ESSER: Yeah. Why don't I just do that?

MR. MACKOFF: Sure.

THE HEARING OFFICER: Okay. Let's do that, and then we'll make our record.

MS. LANDOW-ESSER: Sorry.

MR. MACKOFF: It's the last page.

MS. LANDOW-ESSER: Right. It says Count 14 on it. It was a 14-count complaint. Okay.

THE HEARING OFFICER: Okay. For the record, I

believe Ms. Landow-Esser has had an opportunity to review the complaint.

Ms. Landow-Esser, do you have any comment regarding Mr. Mackoff's representations regarding the failure of the stipulation settlement to include Count 14?

MS. LANDOW-ESSER: It doesn't include Count 14, and as long as I understand him correctly that there --

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that should we include that, it would have no bearing on any other portion of the settlement, then I think it's just a typographical error that can be corrected.

THE HEARING OFFICER: Mr. Mackoff, anything else that the state would like to provide?

MR. MACKOFF: No, sir.

THE HEARING OFFICER: Ms. Landow-Esser, anything on behalf of the respondent?

MS. LANDOW-ESSER: No.

THE HEARING OFFICER: Okay. At this time, what I would ask from any interested citizens or other members of the public are any statements that they may have at this time.

MR. EDWARDS: Question?

THE HEARING OFFICER: Yes.

MR. EDWARDS: When and where will this

stipulation be presented to the Board?

THE HEARING OFFICER: This stipulation was filed with the Board I believe, in fact, I have a filing date of June 25th of 1997.

MR. EDWARDS: When will it be acted on?

THE HEARING OFFICER: That I can't guarantee you with any certainty, but the Board has regular scheduled meeting dates. The next date would be December

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4th. That -- I apologize. The next date is tomorrow, November 20th.

After that would be December 4th, and I believe the next date then is either the 18th of December or the 20th of December. I don't recall what the third date is. I can certainly get that information.

Which date they will choose to act upon the settlement of stipulation and dismissal, I'm not sure, but I would -- if I was to pose a guess, I would assume before the end of the year, but I can't guarantee that either.

MR. EDWARDS: Where can we get a copy of this stipulation?

THE HEARING OFFICER: Perhaps -- well, the Board would obviously provide a copy for you. I don't know -- you can certainly make a copy of the one that

I've been provided today if you wish.

MR. EDWARDS: Thank you.

MS. LANDOW-ESSER: Do you want to make a copy?

MR. DuROCHER: If this is the same one.

MR. EDWARDS: Oh, you've got it.

THE HEARING OFFICER: Let the record reflect that Ms. Landow-Esser has provided a copy to Mr. Edwards who has represented himself as the attorney for the Village of Montgomery.

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Now, are there any other statements from concerned citizens or other interested parties?

MR. DuROCHER: May I?

MR. EDWARDS: Sure.

MR. DuROCHER: John DuRocher, I'm the village administrator for the village.

THE HEARING OFFICER: Would you spell your last name for the record?

MR. DuROCHER: D-u, capital R, o-c-h-e-r.

THE HEARING OFFICER: Mr. DuRocher, please raise your right hand and be sworn in. We'll have the court swear you in. I apologize, the court reporter swear you in.

(Witness sworn.)

WHEREUPON:

J O H N D u R O C H E R,

called as a witness herein, having been first duly sworn,
deposeth and saith as follows:

MR. DuROCHER: Back in the late 1980s, Allsteel
had a chemical spill or a leaking underground storage
tank that leached into the groundwater.

The Village of Montgomery has a water treatment
facility located across the street from the Allsteel
plant, and it was our firm belief that the contaminants,

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the VOCs, the volatile organic compounds that were in the
groundwater leached into the groundwater supply and
forced the Village of Montgomery to add an extra step to
our water treatment process.

Basically, we added what's called an air stripper to
our water treatment process to take out some of the
chemicals that were in the ground, and this is part of --
was part of an IEPA investigation.

It was our understanding that there was some linkage
between what's going on now with this hearing and the
prior leakage, and that's why the village asked for a
public hearing because we wanted to find out if there was
a relationship and what the status of the prior leak

was.

So that's why we're here now. In conversation with the attorney general, there is no real direct connection between the complaint that was -- is being acted on now and the prior leak, but we wanted to know what the status is of the prior complaint and how it impacts the village. That is the essence of our request for the hearing.

THE HEARING OFFICER: Mr. DuRocher, what is your position?

MR. DuROCHER: I'm the village administrator.

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THE HEARING OFFICER: Anything else, Mr. DuRocher?

MR. DuROCHER: No. That's all.

THE HEARING OFFICER: Any other comments from members of the public or other concerned parties?

Okay. I'm going to ask at this time if anybody has any closing statements that they'd like to make.

Mr. Mackoff?

MR. MACKOFF: No.

THE HEARING OFFICER: Ms. Landow-Esser?

MS. LANDOW-ESSER: No, no statement.

THE HEARING OFFICER: Okay. I'd like to thank

you all for -- I think this will be unnecessary, but what I would like to do at this point is ask if there is any intention of a briefing schedule if you'd like to have an opportunity to brief these issues or brief the stipulation of settlement at this point? Mr. Mackoff?

MR. MACKOFF: No, we don't.

THE HEARING OFFICER: Ms. Landow-Esser?

MS. LANDOW-ESSER: I think it's unnecessary.

THE HEARING OFFICER: All right.

What I'd like to do is obviously thank you for appearing here before us today and giving us an opportunity to come out to Montgomery.

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As far as the record is concerned, if you need or if you want a copy of the transcript, you can contact the court reporter here or if you'd like to obtain a copy from the Board, and at this time, I would close the hearing in this matter PCB 97-010.

Thank you.

(Which were all the proceedings held in the above-entitled matter.)

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Geanna M. Pignone-Iaquinta
Notary Public, Cook County, IL
Illinois License No. 084-004096

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SUBSCRIBED AND SWORN TO
before me this _____ day
of _____, A.D., 1997.

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Notary Public

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