

ILLINOIS POLLUTION CONTROL BOARD
February 19, 2009

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 96-76
)	(Enforcement - Land)
CHEMETCO, INC., a Delaware corporation,)	
)	
Respondent.)	

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

On October 10, 1995, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint (Complaint) against Chemetco, Inc. (Chemetco) concerning its copper smelter (smelter) located on approximately 12 acres in the Southeast quarter, Section 16, Township 4 North, Range 9 West near Hartford, Madison County. On April 8, 1998, the People filed an amended complaint (Am. Comp.) against Chemetco alleging further violations regarding the smelter.¹ The parties now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties’ stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), 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 (2006); 35 Ill. Adm. Code 103. In this case, the People allege that Chemetco violated Section 21(f)(2) (415 ILCS 5/21(f)(2) (2006)) of the Act, and Sections 725.242(a) - (c) and 725.244(a) - (c) of the Board’s regulations regarding Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725.242(a)-(c) and 725.244(a)-(c)) by failing to provide detailed written cost closure estimates, failing to maintain a written estimate of the cost of its hazardous waste unit post-closure plans, and failing to annually update its cost estimates for inflation or for modification of its hazardous waste management unit closure and post-closure plans. Am. Comp. at 2-5.

On February 11, 2009, the People and Chemetco 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) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)), which requires that the public have an opportunity to request a

¹ On February 19, 1998, the Board filed an interim opinion and order granting the complainant partial summary judgment on counts I and II. The order severed complainant’s claims regarding Chemetco’s failure to provide written closure cost estimates and directed the parties to proceed to hearing on that issue, along with the proper penalties for the adjudicated violations. Am. Comp. at 2-3; and *See People v Chemetco, Inc.*, PCB 96-76 (Feb. 19, 1998)

hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Chemetco neither admits nor denies the alleged violations, and agrees to pay a civil penalty of Two Million Dollars (\$2,000,000.00).

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2006); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on February 19, 2009, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board