

ILLINOIS POLLUTION CONTROL BOARD
May 1, 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 01-83
)	(Enforcement - Land)
INDIANA HARBOR BELT RAILROAD)	
COMPANY, a foreign corporation,)	
)	
Respondent.)	

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

On November 21, 2000, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Indiana Harbor Belt Railroad (Indiana Harbor) and ACN International, Inc. See 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. On March 20, 2003, the Board dismissed respondent ACN International, Inc. from this proceeding. The People allege that Indiana Harbor violated Section 21(a) and (p) of the Environmental Protection Act (Act) (415 ILCS 5/21(a) and (p) (2002)). The People further allege that Indiana Harbor violated these provisions by allowing and arranging the consolidation of waste at a site that does not meet the definition of a sanitary landfill. The complaint concerns Indiana Harbor's site at the intersection of 138th Street and Ashland Avenue in Riverdale, Cook County.

On March 10, 2003, the People and Indiana Harbor 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) (2002)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)). See 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Daily Southtown* on April 2, 2002. 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) (2002); 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. 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 Indiana Harbor'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) (2002)). The People and Indiana Harbor have satisfied Section 103.302. Indiana Harbor neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$20,000. The Board 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. Indiana Harbor must pay a civil penalty of \$20,000 no later than May 30, 2003, which is the 30th day after the date of this order. Indiana Harbor must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency and designated for deposit in the Environmental Protection Trust Fund. The case number, case name, and Indiana Harbor's social security number or federal employer identification number must be included on the certified check or money order.
3. Indiana Harbor must send the certified check or money order to:

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

Copies of the certified check or money order must be sent to:

Christopher Grant
Assistant Attorney General
Environmental Bureau
188 West Randolph 20th Floor
Chicago, IL 60601

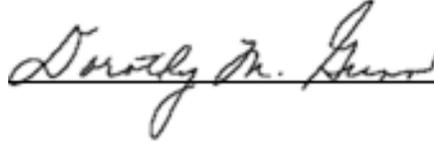
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. Indiana Harbor must cease and desist from the alleged 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) (2002); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 1, 2003, by a vote of 7-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board