

ILLINOIS POLLUTION CONTROL BOARD  
July 16, 1987

PEOPLE OF THE STATE OF ILLINOIS,            )  
                                                  )  
                  Complainant,                )  
                                                  )  
                  v.                            )     PCB 86-92  
                                                  )  
G & W ELECTRIC COMPANY,                    )  
                                                  )  
                  Respondent.                )

H. ALFRED RYAN, ASSISTANT ATTORNEY GENERAL, APPEARED ON BEHALF OF  
COMPLAINANT; AND

BRUCE FRIERDICH, GORDON & GLICKSON, P.C., APPEARED ON BEHALF OF  
RESPONDENT.

OPINION AND ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board upon a five-count complaint filed against G & W Electric Company (G & W). G & W is charged with violations of various provisions of the Act and Board regulations arising from storage of hazardous waste. The initial complaint was filed on June 24, 1986 by the Attorney General who was then representing the Illinois Environmental Protection Agency (Agency), as complainant. On May 6, 1987, the Attorney General filed a motion for leave to amend the complaint. The sole amendment sought was substitution of the People of the State of Illinois as complainant in lieu of the Agency. The motion recited that the reason for the substitution was the Agency's refusal to concur with the penalty proposed in a stipulation of facts and proposal for settlement agreed to by the Attorney General and G & W. This stipulation, also filed May 6, 1987, proposes a penalty of \$2,000; the motion to substitute further recites that the Agency considered this sum (roughly 80% of the Agency's initial demand) insufficient.

The Board granted leave to amend the complaint on May 14, 1987. The stipulation and proposal for settlement were presented at hearing held on May 27, 1987, at which no members of the public were present. The hearing transcripts were filed with the Board on June 11, 1987.

G & W Electric Company is an Illinois corporation which conducts its business at its site located at 3500 West 127th Street, Blue Island, Cook County, Illinois (Blue Island Site). G & W manufactures power cable terminators, splices, switches and other electrical equipment. G & W is a small quantity generator of hazardous waste. From time to time since December 17, 1983,

hazardous wastes in the form of paint and solvent sludge have been stored on the facility.

Count I of the complaint alleges that G & W has conducted these activities without a RCRA permit in violation of Section 21(f)(1) of the Act. Count II alleges that G & W never obtained or submitted analyses of these stored wastes to the Agency, in violation of Section 21(f)(2) of the Act and 35 Ill. Adm. Code 725.113. Count III alleges that G & W failed to submit to the Agency a contingency plan addressing the hazards from possible spills of hazardous wastes in violation of Section 21(f)(2) of the Act and 35 Ill. Adm. Code Section 725.151(a). Count IV alleges that G & W has failed to submit to the Agency an approvable closure plan for its facility, in violation of Section 21(f)(2) of the Act, and 35 Ill. Adm. Code 725.211. Count V of the complaint alleges that G & W has failed to submit an annual report for the years 1983-1985 describing inter alia the characteristics and quantities of the hazardous waste, and its method of storage in violation of Section 21(f)(2) and 35 Ill. Adm. Code 725.175.

The parties jointly stipulated that G & W has never submitted an annual report, but that on January 14, 1987 that G & W submitted a closure plan to the Agency. At hearing, G & W stated that this plan has been accepted and approved by the Agency. R.13. G & W asserts that its storage activities were the result of difficulties with its waste handler, which resulted in the accumulation "in excess of 20-30 drums of hazardous waste in 1983", but that it has since properly removed and disposed of these wastes. G & W additionally asserts that "at all other times pertinent to the instant action, that [it] has complied with the regulations applicable to small quantity generators of hazardous wastes".

The parties propose settlement of this action on the following terms: 1) that G & W admits to violation of the annual report requirements, 2) that G & W will submit annual reports for the years 1983, 1984 and 1985, 3) that G & W agrees to cease and desist from further violations, and 4) that G & W will pay a stipulated penalty of \$2,000 into the Environmental Protection Trust Fund.

The Board is required to evaluate proposed stipulations and settlements in light of the various factors listed in Section 33(c) of the Act. This case presents yet another instance in which the Board's ability to make such an evaluation is impeded by the nature and content of the stipulation presented to it. While the Board is invited to make a finding of violation of the annual report requirement on the basis of G & W's admission, the terms of the stipulation preclude the Board from reaching the merits of the other allegations. On the basis of the limited information available for the Board's consideration, the Board finds the stipulation and proposed \$2,000 penalty acceptable. The Board notes however, that the provision of the stipulation

requiring the filing of the late annual reports does not contain a date for their filing. As an open-ended order is nearly unenforceable, the Board will insert the requirement that these reports be filed within 60 days, notwithstanding the stipulation's standard provision that it is "null and void...if the Board does not approve this proposal...in its entirety." If this time frame is unacceptable, the parties may suggest a more appropriate date by way of motion for reconsideration.

This Opinion constitutes the Board findings of fact and conclusions of law in this matter.

ORDER

1. Respondent, G & W Electric Co. is found in violation of Section 21(f)(2) of the Environmental Protection Act, Ill. Rev. Stat. 1985, ch. 111 1/2 par. 21(f)(2), and 35 Ill. Adm. Code 725.175.
2. The Board hereby accepts the May 6, 1987 stipulation and proposal for settlement, which is attached hereto and incorporated herein.
3. Respondent shall cease and desist from all further violations of the Act and Board regulations at its Blue Island Site.
4. Within 60 days of the date of this Order, Respondent shall: submit to the Agency annual reports (providing estimates where actual amounts are not available) for generation of hazardous waste for the years 1983, 1984 and 1985. These reports shall be submitted to:

Eugene Theos  
Compliance Monitoring  
Illinois Environmental Protection Agency  
Division of Land Pollution Control  
2200 Churchill Road  
Springfield, IL 62706

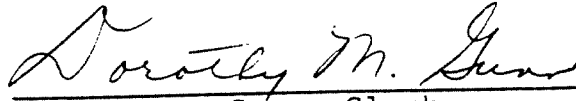
5. Within 30 days of the date of this Order, Respondent shall pay a stipulated penalty of two thousand dollars (\$2,000). This payment, which shall be made by certified check or money order payable to the State of Illinois and designated for deposit into the Environmental Trust Fund, shall be sent to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
2200 Churchill Road  
Springfield, IL 62706

IT IS SO ORDERED.

J. T. Meyer dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 16<sup>th</sup> day of July, 1987, by a vote of 5-1.

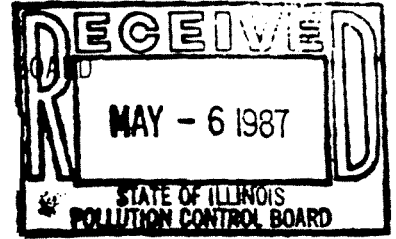


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Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board

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BEFORE THE ILLINOIS POLLUTION CONTROL  
STATE OF ILLINOIS



PEOPLE OF THE STATE OF ILLINOIS, )

Complainant, )

vs )

G & W ELECTRIC COMPANY, )

Respondent. )

PCB 86-92

STIPULATION OF FACTS AND PROPOSED SETTLEMENT

NOW COMES Complainant, through its attorney Neil F. Hartigan, Attorney General of the State of Illinois, and Respondent, G & W Electric Company, an Illinois corporation, by its attorney Sanford M. Stein, and respectfully submit the following Stipulation of Facts and Proposed Settlement ("Stipulation"). The parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties if a full hearing were held.

STATEMENT OF FACTS

- 1) Complainant is represented by the Attorney General, a constitutional officer empowered to bring actions to enforce the provisions of the Illinois Environmental Protection Act ("Act"), Ill. Rev. Stat. 1985, ch. 111 1/2, para. 1001 et seq., and charged, inter alia, with the duty of enforcing the Act pursuant to Title VIII of the Act.
- 2) Respondent is an Illinois corporation which manufactures power cable terminators, splices, switches and other electrical equipment. At all times pertinent to the instant action, Respondent's

activities have been conducted at 3500 West 127 Street, Blue Island, Cook County, Illinois ("Blue Island Site").

- 3) Respondent is a generator of hazardous waste, and has notified the United States Environmental Protection Agency ("USEPA") of that fact.
- 4) The Blue Island Site is an individual generation site as defined by 35 Ill. Adm. Code 720.110. From time to time, since December 17, 1983, hazardous wastes in the form of paint and solvent sludge have been stored on the Blue Island site, however, the site is not a hazardous waste disposal facility.
- 5) On January 14, 1987, Respondent submitted a closure plan for its storage activities to the Complainant and to the Illinois Environmental Protection Agency (hereinafter "Agency").
- 6) Respondent has never submitted an Annual Report of its hazardous waste generating and storage activities to the Complainant or to the Agency.
- 7) Complainant asserts that the acts and omissions described above constitute violations of § 21(f)(2) of the Act, Ill. Rev. Stat. 1985, ch. 111 1/2, para. 21(f)(2); and a violation of 35 Ill. Adm. Code 725.175.

8) Respondent asserts the following:

- a) Respondent is a small quantity generator of hazardous waste as defined in 35 Ill. Adm. Code 721.105.
- b) Due to difficulties with their waste handler, Respondent accumulated in excess of 20-30 drums of hazardous waste during 1983.
- c) Respondent has properly removed and disposed of the accumulated drums of hazardous waste.
- d) At all other times pertinent to the instant action, Respondent has complied with the regulations applicable to small quantity generators of hazardous wastes.

PROPOSAL FOR SETTLEMENT

As a result of the settlement discussions between the parties and of the actions taken by Respondent, the parties believe that the public interest will be best served by resolution of this enforcement action under the terms and conditions provided herein. This proposal for settlement is expressly conditioned upon and effective only with the approval thereof in all respects by the Illinois Pollution Control Board ("Board"). All statements contained herein are agreed for purposes of settling the instant action only and shall be null and void and of no effect in any further proceeding or cause of action if the Board does not approve this proposal for settlement in its entirety. The parties further stipulate that the statement of facts listed above is made and

agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in this or any other proceeding except to enforce the terms of the Proposal For Settlement and Terms of Settlement ("Agreement") contained herein. This Agreement shall be null and void unless the Board approves and disposes of this matter on each and every one of the terms and conditions of the Agreement set forth.

#### TERMS OF SETTLEMENT

Complainant and Respondent have agreed to the following Terms of Settlement. These terms shall be in full settlement of the instant action, and of Respondent's liability for the violation acknowledged herein.

- 1) Respondent admits to violations of § 21(f)(2) of the Act, Ill. Rev. Stat. 1985, ch. 111 1/2, para. 21(f)(2); and a violation of 35 Ill. Adm. Code 725.175, as set forth in the Complaint filed in the instant action.
- 2) Respondent agrees to cease and desist from all further violations of the Act and Board rules and regulations at its Blue Island Site.
- 3) Respondent agrees to :
  - a) submit to Complainant annual reports (providing estimates where actual amounts are not available) for generation for the years 1983, 1984, 1985.



4) The parties enter into this Agreement and Respondent agrees to pay the penalty specified in this paragraph in order to avoid the substantial costs, inconveniences and uncertainties of further litigation. In order to resolve this dispute and as a condition of settlement, Respondent agrees to pay a penalty of two thousand dollars (\$2,000.00) into the Environmental Protection Trust Fund within thirty (30) days from the date on which the Board adopts a final order approving, accepting, and incorporating this Stipulation. Complainant deems the payment to be appropriate to aid in the enforcement of the Act under the circumstances of this case.

WHEREFORE, Complainant and Respondent jointly request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

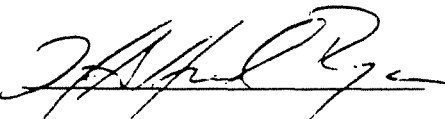
For Complainant:

For Respondent:

PEOPLE OF THE STATE OF  
ILLINOIS

G&W ELECTRIC COMPANY

By:



H. ALFRED RYAN  
Assistant Attorney General

By:



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

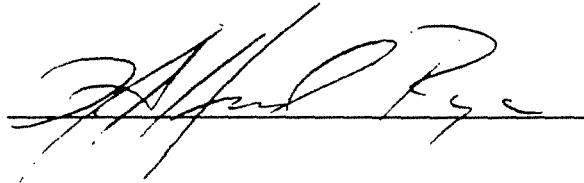
PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	PCB 86-92
	)	
vs	)	
	)	
G & W ELECTRIC COMPANY,	)	
	)	
Respondent.	)	

AFFIDAVIT

H. ALFRED RYAN, being duly sworn on oath, deposes and says as follows:

- 1) I know of my personal knowledge that the facts set forth in the foregoing "Stipulation Of Facts And Proposed Settlement," are true and correct in all material respects.

FURTHER AFFIANT SAYETH NOT.



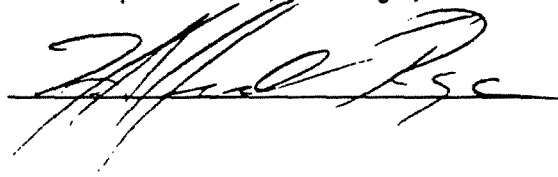
SUBSCRIBED AND SWORN TO  
BEFORE ME ON MAY 6, 1987



NOTARY PUBLIC

PROOF OF SERVICE

I, H. ALFRED RYAN, being duly sworn and under oath do state that on May 6, 1987, I served a copy of the forgoing Notice and a Stipulation Of Facts And Proposed Settlement on the persons listed on the Notice of Filing by placing a copy in an envelope addressed to said person, by first class mail, postage prepaid, and depositing for pick up in the U.S. Postal Service, 100 West Randolph Street, Chicago, Illinois 60601.

A handwritten signature in cursive script, appearing to read "Alfred Ryan", written over a horizontal line.

SUBSCRIBED AND SWORN TO  
BEFORE ME ON MAY 6, 1987

A handwritten signature in cursive script, appearing to read "Phillip D. [unclear]", written over a horizontal line.  
NOTARY PUBLIC