

ILLINOIS POLLUTION CONTROL BOARD

November 21, 1996

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 97-38
)	(Enforcement - Land)
)	
AMSTED INDUSTRIES, INC., a Delaware)	
corporation d/b/a GRIFFIN WHEEL)	
COMPANY; L.E. SWIDERSKI d/b/a)	
GRIFFIN WHEEL COMPANY; HELLMAN)	
TRUCKING COMPANY, INC., an Iowa)	
corporation; and HORSEHEAD RESOURCE)	
DEVELOPMENT COMPANY, INC., a)	
Delaware corporation,)	
)	
Respondents.)	

ORDER OF THE BOARD (by J. Yi):

On August 22, 1996, the Illinois Attorney General, on behalf of the People of the State of Illinois and the Illinois Environmental Protection Agency (Agency), filed a formal complaint naming as respondents Amsted Industries, Inc.(Amsted), a Delaware corporation d/b/a Griffin Wheel Company; L.E. Swiderski d/b/a Griffin Wheel Company; Hellman Trucking Company, Inc.(Hellman), an Iowa corporation; and Horsehead Resource Development Company, Inc.(Horsehead), a Delaware corporation pursuant to Section 31 of the Environmental Protection Act (Act). (415 ILCS 5/31.) The complaint alleges that the respondents; Amsted and L.E. Swiderski d/b/a Griffin Wheel Company violated 35 Ill. Adm. Code 809.301 by failing to complete and deliver a completed manifest to a hauler who held a valid special waste hauling permit; that Hellman violated 35 Ill. Adm. Code 809.201 and Section 21(g)(1) and (2) of the Act by shipping special waste without a current and valid permit; and that Horsehead violated 35 Ill. Adm. Code 809.302(a) and Section 21(d)(2) of the Act by accepting special waste without a signed manifest. (415 ILCS 5/21(g) (1) and (2) and 21(d)(2).)

On September 9, 1996 respondents Horsehead, Amsted, Hellman and Griffin Wheel Company filed motions to dismiss.¹ In the motions to dismiss, the respondents claim that complainant failed to meet the notice requirements of Section 31(d) of the Act prior to filing the complaint. (415 ILCS 5/31(d).) Therefore the respondents argue that the Board lacks jurisdiction.

¹ Horsehead filed a separate motion to dismiss and the remaining respondents joined in one motion.

On September 16, 1996, the complainant filed a motion to defer ruling on respondents' motions to dismiss. The complainant stated that the parties are engaged in discussions concerning a possible settlement of this matter. Complainant proposed to file a joint status report in 30 to 45 days describing the progress. Complainant also maintained that respondents' counsels have stated that they have no objection in granting this motion. The Board granted the motion to defer ruling until November 21, 1996 and directed the parties to file a joint status report on or before November 8, 1996.

On November 8, 1996, the parties filed a joint status report. The joint status report indicates the parties are negotiating a settlement in this matter. The parties request to file another status report 30 to 60 days and the complainant requests the Board to continue to defer ruling on respondents' motion to dismiss.

The Board grants the motions. The parties are to file another joint status report on or before January 24, 1997 or any other appropriate motion. The joint status report shall be directed to the assigned hearing officer for consideration.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the _____ day of _____, 1996, by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board