ILLINOIS POLLUTION CONTROL BOARD August 7, 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 99-92 (Enforcement - Land)
HARTZ CONSTRUCTION CO., INC., an Illinois corporation,)	(Emoreement - Land)
Respondent.)	

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

On December 29, 1998, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Hartz Construction Co., Inc. (Hartz). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that Hartz violated Section 21(a) of the Environmental Protection Act (Act) (415 ILCS 5/21(a) (2002)). The People further allege that Hartz violated these provisions by open dumping of waste. The complaint concerns Hartz's 77-acre property referred to as Eagle Ridge subdivision located in Oak Lawn, Cook County.

On June 6, 2003, the People and Hartz 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 III. Adm. Code 103.300(a). The Board published notice of the stipulation, proposed settlement, and request for relief in the *Daily Southtown* on June 25, 2003. 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 III. 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 Hartz'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 Hartz have satisfied Section 103.302. Hartz denies the alleged violation(s) and agrees to pay a civil penalty of \$31,500. 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. Hartz must pay a total civil penalty of \$31,500. Hartz must pay \$31,500 no later than September 8, 2003 (which is the 30th day after the date of this order). Hartz must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Hartz's social security number or federal employer identification number must be included on the certified check or money order.
- 3. Hartz 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

- 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. Hartz 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 August 7, 2003, by a vote of 7-0.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board