

ILLINOIS POLLUTION CONTROL BOARD
September 18, 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 97-9
)	(Enforcement - Land)
C & S RECYCLING, INC., an Illinois)	
corporation, FLOOD BROTHERS DISPOSAL)	
COMPANY, INC., an Illinois corporation,)	
WILLIAM FLOOD, individually and as)	
president of C&S RECYCLING, INC., and)	
BRIAN FLOOD, individually, and as treasurer)	
of C&S RECYCLING, INC.,)	
)	
Respondents.)	

OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On July 11, 1996, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against C & S Recycling, Inc., Flood Brothers Disposal Company, Inc., William Flood, and Brian Flood (respondents). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. At issue is the People's allegation that respondents violated Section 21(a) and (d) of the Environmental Protection Act (415 ILCS 5/21(a) and (d) (2002)) (Act) and 35 Ill. Adm. Code 807.201 and 807.202. The People further allege that respondents violated these provisions by causing or allowing the open dumping of waste, developing a solid waste management facility without a permit, and operating a solid waste management facility without a permit. The complaint concerns respondents' solid waste sorting and transfer facility at 4009 West Taylor Street, Chicago, Cook County.

On July 30, 2003, the People and Respondents 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 *Chicago Sun-Times* on August 18, 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 Ill. Adm. Code 103.300(b).

On August 13, 2003, the People filed a motion to dismiss William Flood and Brian Flood as respondents in this case. The respondents requested the dismissal, without prejudice, only if the Board approves the July 30, 2003 stipulation and settlement agreement. In support of this motion, the People assert that the dismissal of William Flood and Brian Flood will not affect

implementation of the settlement agreement. The People further assert that all parties have agreed to the dismissal of William Flood and Brian Flood.

The Board grants that motion and dismisses William Flood and Brian Flood from this action without prejudice. The rest of this order relates only to C & S Recycling, Inc. and Flood Brothers Disposal Company, Inc. (remaining respondents).

Section 103.302 of the Board's procedural rules sets forth the required contents of a stipulation and proposed settlement. 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 remaining respondents' 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 remaining respondents have satisfied Section 103.302. Remaining respondents admit the alleged violation(s) and agree to pay a civil penalty of \$45,000. The Board accepts the stipulation and proposed settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

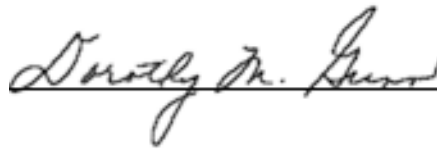
1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
2. Remaining respondents must pay a civil penalty of \$45,000 no later than October 18, 2003, which is the 30th day after the date of this order. Remaining respondents must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and remaining respondents' social security numbers or federal employer identification numbers must be included on the certified check or money order.
3. Remaining respondents 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. Remaining respondents 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 September 18, 2003, by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written in black ink. The signature is positioned above a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board