

stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Chicago Sun-Times* on March 1, 2006. 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) (2004); 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 Clean Harbors Services'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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

Clean Harbors Services neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount. Clean Harbors Services agrees to pay a civil penalty of \$95,000, which the parties stipulate negates any economic benefit derived from delayed compliance. The People further assert that the penalty will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations. Clean Harbors Services further agrees to undertake and complete a supplemental environmental project (SEP) and make improvements to the emissions control system for its flammable storage tank farm. In the event that Clean Harbor Services expends less than \$155,000 for this SEP, it must submit the difference as a penalty so that the sum expended totals \$155,000 in addition to the \$95,000 penalty. The stipulation contains other particulars concerning the SEP.

The People and Clean Harbors Services have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement. This docket is now closed.

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. Clean Harbors Services, Inc. must pay a civil penalty of \$95,000 no later than May 8, 2006, which is the first business day after the 30th day after the date of this order. Clean Harbors Services must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Environmental Protection Trust Fund. The case number, case name, and Clean Harbors Services's federal employer identification number must be included on the certified check or money order.
3. Clean Harbors Services must send the certified check, money order, or electronic funds transfer to the indicated address:
Illinois Environmental Protection Agency
Fiscal Services Division

1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

4. Clean Harbors Services must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following person at the indicated address:

Paula Becker Wheeler, Assistant Attorney General
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, Illinois 60601

Robb H. Layman, Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

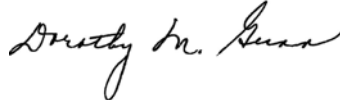
5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
6. Clean Harbors Services must by April 6, 2007, which is 365 days after the date of this order, undertake and complete the following supplemental environmental project having an approximate value of \$155,000:
 - a. Removal of flame arrestors and conservation vents on each individual tanks;
 - b. Addition of flame arrestors and conservation vents at knock-out tanks;
 - c. Addition of level sensors at knock-out tanks;
 - d. Addition of rupture disks at emergency vents on individual tanks; and
 - e. Conversion of two existing stacks to one fifty-foot stack.
7. Clean Harbors Services must apply for and obtain all necessary permits to undertake and complete the supplemental environmental project.
8. Clean Harbors Services must file a completion report, which includes the costs incurred for the improvements, to Robb H. Layman at the address indicated above within 180 days of completion of the supplemental environmental project.

9. In the event that Clean Harbor Services incurs actual costs that are less than the proposed amount of \$155,000 to perform the SEP, Clean Harbor Services must tender the difference in the amount so that the sum expended will be \$155,000 whether as SEP costs or as a cash penalty, exclusive of the previously paid \$95,000 penalty. Clean Harbors Services must pay any such amount within 30 days of filing of the completion report required by paragraph 8 above, by a certified check, money order, or electronic funds transfer, with original and copies marked and forwarded as per paragraphs 3 through 5 above.
10. Clean Harbors Services 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) (2004); *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 April 6, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board