## ILLINOIS POLLUTION CONTROL BOARD October 16, 2008

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complainant,	)	
V.	)	PCB 07-42
ENVIRONMENTAL RECLAMATION	)	(Enforcement – Land)
COMPANY, an Illinois corporation,	)	
Respondent.	)	

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

On November 20, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Environmental Reclamation Company (ERC). The complaint concerns ERC's sanitary landfill located at West Route 316 in Charleston, Coles County. The parties now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2006)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2006); 35 Ill. Adm. Code 103. In this case, the People allege that ERC violated Sections 12(a), 12(f), 21(d), and 21(o) of the Act (415 ILCS 5/12(a) 12(f), 21(d), 21(o) (2006)) and Sections 811.103(a) and 811.106(a) of the Board's regulations (35 Ill. Adm. Code 811.103(a), 811.106(a)). The People further allege that ERC violated these provisions by (1) failing to properly cover landfill waste by placing a uniform layer of at least six inches of clean soil material on top of the landfill waste by the end of each day of operation; (2) causing, threatening, or allowing the discharge of contaminants into Riley Creek so as to cause or tend to cause water pollution; (3) causing, threatening, or allowing the discharge of contaminants into Riley Creek without a National Pollutant Discharge Elimination System (NPDES) permit for point source discharges issued by the Illinois Environmental Protection Agency; and (4) failing to properly control storm water runoff from the site.

On September 2, 2008, the People and ERC 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) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action without a public hearing. See 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the Charleston Times-Courier on September 10, 2008. 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) (2006); 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. *See* 35 III. Adm. Code 103.302. These requirements include stipulating to facts on the nature, extent, and causes of the alleged violations and the nature of ERC'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) (2006)), which bears on the reasonableness of the circumstances surrounding the alleged violations. ERC does not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2006)), which may mitigate or aggravate the civil penalty amount. ERC agrees to pay a civil penalty of \$8,500. The People and ERC have satisfied Section 103.302. 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. ERC must pay a civil penalty of \$8,500 by November 17, 2008, which is the first business day following the 30th day after the date of this order. ERC must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency, designated to the Illinois Environmental Protection Trust Fund. The case name, case number, and ERC's federal tax identification number must appear on the face of the certified check or the money order.
- 3. ERC must submit payment of the civil penalty to:

Illinois Environmental Protection Agency Fiscal Services Division 1021 North Grand Avenue East P.O. Box 19276 Springfield, Illinois 62794-9276

ERC must send a copy of the certified check or money order and any transmittal letter to:

Environmental Bureau Illinois Attorney General's Office 500 South Second Street Springfield, Illinois 62706 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).

## 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) (2006); 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, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on October 16, 2008, by a vote of 4-0

John Therriault, Assistant Clerk Illinois Pollution Control Board