

ILLINOIS POLLUTION CONTROL BOARD  
February 4, 2010

|                                  |   |                |
|----------------------------------|---|----------------|
| PEOPLE OF THE STATE OF ILLINOIS, | ) |                |
|                                  | ) |                |
| Complainant,                     | ) |                |
|                                  | ) |                |
| v.                               | ) | PCB No. 10-022 |
|                                  | ) | (Enforcement)  |
| WESTERN SAND & GRAVEL COMPANY,   | ) |                |
| LLC., an Illinois corporation,   | ) |                |
|                                  | ) |                |
| Respondent.                      | ) |                |

ORDER OF THE BOARD (by G. L. Blankenship):

On September 30, 2009, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a 3-count complaint against Western Sand & Gravel Company, LLC (WS&G). The complaint concerns WS&G's clean destruction or demolition debris facility located at the intersection of 178 and I-80, LaSalle County, Illinois. The parties now seek to settle without a hearing. For the reasons below, the Board directs the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008))<sup>1</sup>, the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that WS&G Section 21(d)(2) and (e), and 22.51(a) of the Act (415 ILCS 5/21(d)(2), 21(e), 22.51(a) (2008)) and Sections 1100.201(a), 1100.205(a)(1), (b)(1), (c), (g), and (h), 1100.207(a) and (b), and 1100.210 of the Board's CCDD regulations (35 Ill. Adm. Code 1100.201(a), 1100.205(a)(1), (b)(1), (c), (g), (h), 1100.207(a), (b), 1100.210).

According to the complaint, WS&G violated these provisions under count I by failing to: (1) conduct visual inspections, inspections with a photo ionization detection (PID) instrument for each incoming load, and discharge inspections of at least one randomly selected load delivered to the facility each day, (2) failing to retain records evidencing that a load checking program is being used at the facility, (3) failing to properly train its personnel at the facility to identify material that is not CCDD, and (4) failing to keep and maintain a calibrated PID instrument at the facility for checking loads of CCDD. The complaint alleges under count II that WS&G failed to; (1) restrict unauthorized vehicular access to the working face of the facility and (2) post a permanent sign at the entrance to the facility stating that only CCDD is accepted for use as fill. Count III alleges that WS&G failed to maintain an operating record at the facility.

<sup>1</sup> All citations to the Act will be to the 2008 compiled statutes because the provisions at issue have not been substantively amended in the 2008 compiled statutes.

On January 19, 2010, the People and WS&G. 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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). Under the proposed stipulation, the WS&G. neither admits nor denies the alleged violations and agrees to pay a civil penalty of \$3,120.00.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. *See* 415 ILCS 5/31(c)(2) (2006); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on February 4, 2010, by a vote of 5-0.



---

John Therriault, Assistant Clerk  
Illinois Pollution Control Board