ILLINOIS POLLUTION CONTROL BOARD March 4, 2010

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)))	
V.)	PCB 09-105
R. A. CULLINAN & SONS, INC.,)	(Enforcement - Land)
a Delaware corporation,)	
Respondent.)	

ORDER OF THE BOARD (by C.K. Zalewski):

On May 5, 2009, under the Environmental Protection Act (Act) (415 ILCS 5 (2008¹)), the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against the R. A. Cullinan & Sons, Inc., a Delaware corporation (R. A. Cullinan or respondent). *See* 415 ILCS 5/31(c)(1) (2008); 35 Ill. Adm. Code 103.204. The complaint concerns respondent's clean construction and demolition debris (CCDD) fill operation at the Farmdale Pit facility, located at 22493 Farmdale Road in East Peoria, Tazewell 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 Act, 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 respondent violated Sections 21(d)(2), 21(e), 22.51(a), 22.51(b)(3), and 22.51(c)(2)(A), and 22(d)(1) of the Act, 415 ILCS 5/21 (d)(2), 21(e), 22.51(a), 22.51(b)(3), 22.51(c)(2)(A), and 22(d)(1) (2008), and Sections 1100.201(a), 1100.201(b), 1100.205(a)(1), 1100.205(b)(1), 1100.205(c)(1), 1100.205(h)(1) of the Board's CCDD regulations, 35 Ill. Adm. Code 1100.201 (a), 1100.201(b), 1100.205(a)(1), 1100.205(b)(1), 1100.205(c)(1), 1100.205(h)(1). The People further allege that respondent violated these provisions by allowing waste material that does not meet the definition of CCDD to commingle with the facility's CCDD fill material, failing to inspect incoming loads of clean construction and demolition debris at the site with a photo ionization detector (PID) device, failing to maintain CCDD records for the facility, and disposing of CCDD without a permit.

¹ 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 February 25, 2010, the People and R. A. Cullinan 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, R. A. Cullinan admits to the alleged violations, and agrees to pay a civil penalty of \$16,000.

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) (2008); 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 March 4, 2010, by a vote of 5-0.

In T. Thereian

John Therriault, Assistant Clerk Illinois Pollution Control Board