ILLINOIS POLLUTION CONTROL BOARD March 4, 2010

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 09-129
RELIABLE SAND AND GRAVEL CO.,)	(Enforcement - Land)
INC., an Illinois corporation, Respondent.)	
respondent.	,	

ORDER OF THE BOARD (by A.S. Moore):

On June 17, 2009, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a six-count complaint against Reliable Sand and Gravel Co., Inc. (Reliable). *See* 415 ILCS 5/31.1(c) (200); 35 Ill. Adm. Code 108.202(c). The complaint concerns Reliable's clean construction and demolition debris (CCDD) fill operation at 2121 South River Road in McHenry, McHenry County.

The People alleged that Reliable violated Sections 21(a), (d)(1), (d)(2), and (e), 22(a) and (b)(3), and 22.51(a) of the Environmental Protection Act (Act) (415 ILCS 5/21(a), (d)(1), (d)(2), and (e), 22(a) and (b)(3), 22.51(a) (2008) and 35 Ill. Adm. Code 1100.201(a), 1100.205(a)(1), (b)(1), (c), (g), and (h), 1100.207(a) and (b), and 1100.210. The People further alleged that Reliable had committed these violations by failing to: (1) conduct and maintain records of routine inspections of incoming loads and at least one discharge load by failing to both visually inspect the loads and use a specified PID or other device; (2) demonstrate that site personnel are trained to identify non-CCDD material; (3) conduct field measurements in accordance with permitted operating procedures; (4) keep records of training reports, written procedures for load checking, and load rejection notifications; and (5) obtain an interim authorization for operating the facility. The People also alleged that Reliable violated the Act and Board regulations by dumping, depositing, or placing approximately 100 cubic yards of non-CCDD landscape waste at the face of the fill area, without a permit, and failing to restrict vehicular access to the working face of the area or post a sign excluding non-CCDD waste.

On January 12, 2010, the People and Reliable 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)). 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 *Northwest Herald* on January 23, 2010. 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) (2008); 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 Reliable'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) (2008)). The People and Reliable have satisfied Section 103.302. Reliable does not affirmatively admit the alleged violations and agrees to pay a civil penalty of \$15,000. The Board accepts the stipulation and proposed settlement.

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

<u>ORDER</u>

- 1. The Board accepts and incorporates by reference the stipulation and proposed settlement.
- 2. Reliable must pay a civil penalty of \$15,000 no later than Monday, April 5, 2010, which is the first business day after the 30th day after the date of this order. Reliable must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Reliable's social security number or federal employer identification number must be included on the certified check or money order.
- 3. Reliable 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

A copy of the certified check or money order and any transmittal letter shall be sent to:

Stephen J. Sylvester Environmental Bureau Illinois Attorney General's Office 69 W. Washington St., Suite 1800 Chicago, IL 60602

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
- 5. Reliable 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) (2008); 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 T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 4, 2010, by a vote of 5-0.

John T. Therriault, Assistant Clerk Illinois Pollution Control Board