## ILLINOIS POLLUTION CONTROL BOARD July 1, 2010

| PEOPLE OF THE STATE OF ILLINOIS,    | ) |   |
|-------------------------------------|---|---|
|                                     | ) |   |
| Complainant,                        | ) |   |
|                                     | ) |   |
| v.                                  | ) | ] |
|                                     | ) | ( |
| STARK EXCAVATING, INC., an Illinois | ) |   |
| corporation,                        | ) |   |
|                                     | ) |   |
| Respondent.                         | ) |   |
|                                     |   |   |

PCB 09-65 (Enforcement - Land)

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

On February 26, 2009, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Stark Excavating, Inc. (Stark). The complaint concerns Stark's construction and demolition debris disposal site located immediately north of Interstate 74 in Section 5 of Downs Township, McLean County. 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)), 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 Stark violated Sections 21(d)(2), 21(e), 22.51(a), and 22.51(c)(2)(A) of the Act (415 ILCS 5/21(d)(2), 21(e), 22.51(a), 22.51(c)(2)(A) (2008)), and Sections 1100.201(a), 1100.205(a)(1), 1100.205(b)(1), 1100.205(c)(1), 1100.205(g), 1100.205(h), and 1100.210(b) of the Board's clean construction or demolition debris (CCDD) regulations (35 Ill. Adm. Code 1100.201(a), 1100.205(a)(1), 1100.205(b)(1), 1100.205(c)(1), 1100.205(g), 1100.205(h), 1100.210(b)). The People further allege that Stark violated these provisions by (1) allowing for the accumulation and use of clean construction and demolition debris on the site without following the requisite inspection and record-keeping practices, and (2) failing to inspect incoming loads of clean construction and demolition debris with a photo ionization detector (PID) device.

On June 24, 2010, the People and Stark 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, Stark admits the alleged violations. The proposed stipulation further provides that Stark has performed a supplemental environmental project (SEP) with a settlement value of \$11,133.70, which the

People agree to accept in lieu of a civil penalty payment. According to the stipulation, the SEP consisted of Stark providing material, labor, and equipment to demolish two dilapidated structures at 4000 North Peoria Road in Springfield, Sangamon County for the Illinois State Police Heritage Foundation, as well as Stark paying to remove and dispose of the demolition debris.

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 July 1, 2010, by a vote of 5-0.

John T. Therian

John Therriault, Assistant Clerk Illinois Pollution Control Board