

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 respondents' 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 parties have satisfied Section 103.302. Respondents deny the alleged violations.

Under the terms of the parties' proposal for settlement, respondents must:

(1) restrict their noise generating operations to the inside of the building with the rear (north) bay doors completely closed when high audible impact wrenches, air hammers or other large noise making tools are used and, (2) restrict the loading and unloading of all towed vehicles that are in a drivable condition to an area on the property (south and/or west of the building) where the Alpine Automotive building shields the residential homes from noise; and (3) maintain the wooden fence and barrier surrounding the ventilation/exhaust fan. Stip. at 4, ¶16(c).

The parties agree that "any incidental noise from the impact wrenches or other noise generating tools lasting 3 seconds or less in any 5 minute interval shall not be deemed a violation of this agreement." *Id.* In addition, the parties agree that "[t]he use of low noise generating pneumatic tools not audible on the Morrissey residence, lawn maintenance equipment, and outdoor washing of equipment are not examples of noise generating activities referenced above." *Id.*

The Board accepts the stipulation and proposed settlement.¹ This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

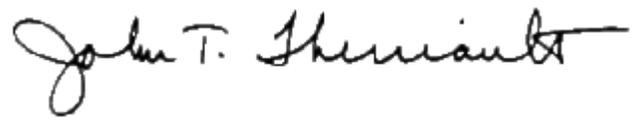
The Board accepts and incorporates by reference the stipulation and proposed settlement.

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 Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on October 7, 2010, by a vote of 5-0.

¹ The Board views as mere scrivener's error the stipulation's inaccurate (Intro. ¶) and incomplete (¶9) citations to the alleged violations of 35 Ill. Adm. Code 901.102(a), 901.102(b), and 901.104.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke at the end.

John Therriault, Assistant Clerk
Illinois Pollution Control Board