

ILLINOIS POLLUTION CONTROL BOARD  
July 12, 2012

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 12-52  
) (Enforcement - Land)  
RELIABLE MATERIALS LYONS, LLC, an )  
Illinois limited liability company, GSG )  
CONSULTANTS, INC., an Illinois )  
corporation, O.C.A. CONSTRUCTION, INC., )  
an Illinois corporation, SPEEDY GONZALEZ )  
LANDSCAPING, INC., an Illinois )  
corporation, PUBLIC BUILDING )  
COMMISSION OF CHICAGO, an Illinois )  
municipal corporation, and BOARD OF )  
EDUCATION OF THE CITY OF CHICAGO, )  
a body politic and corporate, )  
)  
Respondents. )

OPINION AND ORDER OF THE BOARD (by T.A. Holbrook):

On September 26, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Reliable Materials Lyons, LLC (Reliable), GSG Consultants, Inc. (GSG), O.C.A. Construction, Inc. (OCA), Speedy Gonzalez Landscaping, Inc. (SGL), the Public Building Commission of Chicago (PBC), and the Board of Education of the City of Chicago (CPS) (collectively, respondents). The complaint concerns the alleged dumping of waste taken from a 7.5 acre parcel of land located at 401 North Sawyer Avenue in Chicago, Cook County, the Westinghouse Vocational High School construction site, and disposed at a clean construction or demolition debris (CCDD) fill operation located at 4401 First Avenue in Lyons, Cook County.

On December 1, 2011, the Board accepted a stipulation and proposed settlement between the People and SGL, as well as a stipulation and proposed settlement between the People and both PBC and CPS. *See People v. Reliable Materials Lyons, LLC et al.*, PCB 12-52 (Dec. 1, 2011). Now pending are two separate stipulations and proposals for settlement, each accompanied by a request for relief from the hearing requirement. In the first, filed on May 16, 2012, the People and GSG seek to settle without a hearing. In the second, filed on May 29, 2012, the People and OCA seek to settle without a hearing. Reliable is not party to either stipulation. For the reasons below, the Board accepts the stipulation and proposed settlement between the People and GSG. The Board will issue a separate order addressing the stipulation and proposed settlement between the People and OCA after the 21-day statutory period for requesting a hearing has expired. *See* 415 ILCS 5/31(c)(2) (2010).

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), the Attorney General and the State's Attorneys may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. *See* 415 ILCS 5/31 (2010); 35 Ill. Adm. Code 103. In this case, the People allege that all respondents violated Section 21(a) of the Act (415 ILCS 5/21(a) (2010)) by improperly disposing of contaminated soil (count I). The People also allege that SGL and CPS violated Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2010)) by failing to comply with the Board's special waste regulations (count II). In addition, the People allege that Reliable violated the following provisions in the manner described: Section 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2010)) by conducting a waste disposal operation without a permit (count III); and Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2010)) by accepting special waste from haulers without manifests (count IV).

On May 16, 2012, the People and GSG 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) (2010)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Chicago Sun-Times* on June 15, 2012. The Board did not receive any requests for hearing. The Board grants the request of the People and GSG for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2010); 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. *See* 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 the respondent'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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. GSG does not admit the violation alleged against it. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2010)), which may mitigate or aggravate the civil penalty amount. GSG agrees to pay a civil penalty of \$25,000. The People and GSG have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement between the People and GSG.

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

### **ORDER**

1. The Board accepts and incorporates by reference the stipulation and proposed settlement between the People and GSG.
2. GSG must pay a civil penalty of \$25,000 no later than August 13, 2012, which is the first business day following the 30th day after the date of this order. GSG must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental

Protection Trust Fund. The case name, case number, and GSG's federal tax identification number must appear on the face of the certified check or money order.

3. GSG must submit payment of the civil penalty to:

Illinois Environmental Protection Agency  
Fiscal Services Division  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

GSG must send a copy of the certified check or money order and any transmittal letter to:

Stephan J. Sylvester  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 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) (2010)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).
5. GSG must cease and desist from future violations of the Environmental Protection Act that were the subject of the complaint.

IT IS SO ORDERED.

Member J. A. Burke Abstained

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) (2010); *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 July 12, 2012, by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

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John T. Therriault, Assistant Clerk  
Illinois Pollution Control Board