## ILLINOIS POLLUTION CONTROL BOARD September 20, 2012

PEOPLE OF THE STATE OF ILLINOIS,	)	
Complement	)	
Complainant,	)	
v.	)	PCB 13-9
	)	(Enforcement - Land)
AMERICAN GRAIN, LLC, an Illinois limited	)	
liability company and ENVIRONMENTAL	)	
OPERATIONS, INC., a Missouri corporation,	)	
	)	
Respondents.	)	

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

On August 3, 2012, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a five-count complaint against American Grain, LLC, an Illinois limited liability company (American Grain), and Environmental Operations, Inc., a Missouri corporation (EOI) (collectively, respondents). The complaint concerns the dumping of general construction and demolition debris allegedly performed by EOI at American Grain's feed manufacturing plant located at 1 Cargill Road, Cahokia, St. Clair County. In two separate stipulations and proposals for settlement, the respondents and complainant seek to settle without a hearing. For the reasons below, the Board accepts both stipulations and proposed settlements.

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 respondents violated Sections 21(a), (d)(1), (e), (p)(1), and (p)(7) of the Act (415 ILCS 5/21(a), (d)(1), (e), (p)(1), (p)(7) (2010)) by: (1) causing or allowing open dumping at the site (count I); (2) causing or allowing open dumping of waste which resulted in litter (count II); (3) causing or allowing open dumping of waste which resulted in the deposition of general construction or demolition debris (count III); (4) disposing waste or transporting any waste into this State for disposal at a site which does not meet the requirements of the Act (count IV); and (5) conducting a waste disposal operation without a permit (count V).

On August 3, 2012, simultaneously with the People's complaint, the parties filed two separate stipulations and proposals for 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)). These filings are 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 stipulations, proposed settlements, and requests for relief. The newspaper notice was published in the Belleville News-Democrat on August 15, 2012. The

Board did not receive any requests for hearing. The Board grants the parties' requests 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 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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The stipulations also address the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2010)), which may mitigate or aggravate the civil penalty amount.

Under the first proposed stipulation, American Grain does not affirmatively admit the alleged violations and agrees to pay a civil penalty of \$12,000.00. American Grain also agrees to perform a supplemental environmental project through which it will pay \$2,000.00 to St. Clair County Special Services "to fund supplies and services for the St. Clair County hazardous materials team." Under the second proposed stipulation, EOI does not affirmatively admit the alleged violations and agrees to pay a civil penalty of \$14,000.00. The People and respondents have satisfied Section 103.302. The Board accepts the stipulations and proposed settlements.

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

## **ORDER**

- 1. The Board accepts and incorporates by reference the stipulations and proposed settlements.
- 2. American Grain must pay a civil penalty of \$12,000.00 no later than October 22, 2012, which is the first business day following the 30th day after the date of this order. American Grain 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 American Grain's federal tax identification number must appear on the face of the certified check or money order.
- 3. American Grain 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

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

Environmental Bureau Illinois Attorney General's Office 500 South Second Street Springfield, Illinois 62706

- 4. American Grain must also perform a supplemental environmental project by paying \$2,000.00 to fund supplies and services for the St. Clair County hazardous materials team. This payment must be made no later than October 22, 2012, which is the first business day following the 30th day after the date of this order. American Grain must make this payment by certified check or money order payable to St. Clair County Special Services.
- 5. American Grain must submit payment of this supplemental environmental project to:

St. Clair Special Emergency Services Association 2900 Falling Springs Road Sauget, IL 62206

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

Rachel R. Medina Environmental Bureau Illinois Attorney General's Office 500 South Second Street Springfield, Illinois 62706

- 6. 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)).
- 7. American Grain must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject matter of the complaint.
- 8. EOI must pay a civil penalty of \$14,000.00 no later than October 22, 2012, which is the first business day following the 30th day after the date of this order. EOI 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 EOI's federal tax identification number must appear on the face of the certified check or money order.
- 9. EOI 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

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

Rachel R. Medina Environmental Bureau Illinois Attorney General's Office 500 South Second Street Springfield, Illinois 62706

- 10. 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)).
- 11. EOI must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject matter of the complaint.

## 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) (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 order on September 20, 2012 by a vote of 4-0.

John T. Therriault, Assistant Clerk Illinois Pollution Control Board

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