

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
LISA MADIGAN, Attorney General of the)
State of Illinois,)
)
Complainant,)
)
v.) PCB No. 13-
) (Enforcement – Land)
SHERIDAN-JOLIET LAND)
DEVELOPMENT, LLC,)
an Illinois limited-liability company,)
and SHERIDAN SAND & GRAVEL CO.,)
an Illinois corporation,)
(Wiensland Site))
)
Respondents.)

NOTICE OF FILING

TO: Mr. Branko Vardijan
221 N. Washtenaw Avenue
Chicago, Illinois 60612

Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Ste. 11-500
Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a Complaint, Notice of Filing, and a Certificate of Service on behalf of the People of the State of Illinois, a copy of which is attached and herewith served upon you.

Section 103.204(f) of the Pollution Control Board Procedural Rules, 35 Ill. Adm. Code 103.204(f) provides: "Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure,

you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney."

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

BY:



ZEMEHERET BEREKET-AB
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Flr.
Chicago, IL 60602
(312) 814-3816

DATE: October 31, 2012

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
LISA MADIGAN, Attorney General of the)
State of Illinois,)
)
Complainant,)
)
v.) PCB No. 13-
) (Enforcement – Land)
SHERIDAN-JOLIET LAND)
DEVELOPMENT, LLC,)
an Illinois limited-liability company,)
and SHERIDAN SAND & GRAVEL CO.,)
an Illinois corporation,)
(Wiensland Site))
)
Respondents.)

COMPLAINT

Plaintiff, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, complains of the Respondents, SHERIDAN-JOLIET LAND DEVELOPMENT, LLC, an Illinois limited-liability company, and SHERIDAN SAND & GRAVEL CO., an Illinois domestic corporation, as follows:

COUNT I

**FAILURE TO IMPLEMENT AND DOCUMENT
A LOAD CHECKING PROGRAM**

1. This complaint is brought on behalf of the People of the State of Illinois, by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”).

2. This Complaint is brought pursuant to Section 31 of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31 (2010), and is an action to restrain ongoing violations of the Act and for civil penalties.

3. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2010).

4. Respondent, SHERIDAN-JOLIET LAND DEVELOPMENT, LLC., (“SJLD”) is an Illinois limited-liability company in good standing with the Illinois Secretary of State. At all times relevant to the Complaint, SJLD owns a clean construction or demolition debris (“CCDD”) facility located at 105 S. Wiensland Road, Sheridan, LaSalle County, Illinois (“Wiensland Site”).

5. Respondent, SHERIDAN SAND & GRAVEL CO. (“SSG”) is an Illinois corporation in good standing with the Illinois Secretary of State. SSG is the operator of the Wiensland Site.

6. On November 18, 2008, the Illinois EPA issued Permit No. CCDD2007-042-DE/OP to SJLD as owner and SSG as operator to develop a new CCDD fill operation at the Wiensland Site. The permit expires on November 1, 2018.

7. Section 22.51(a) of the Act, 415 ILCS 5/22.51(a) (2010), provides as follows:

Clean Construction or Demolition Debris Fill Operations.

(a) No person shall conduct any clean construction or demolition debris fill operation in violation of this Act or any regulations or standards adopted by the Board.

8. Section 22.51(b)(3)(i) and (ii) of the Act, 415 ILCS 5/22.51(b)(3)(i) and (ii) (2010), provides as follows:

(3) On and after July 1, 2008, no person shall use clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation

- (i) without a permit granted by the Agency ... or in violation of any conditions imposed by such permit or
- (ii) in violation of any regulations or standards adopted by the Board under this Act.

9. Section 1100.201(a) of the Illinois Pollution Control Board (“Board”) CCDD Regulations, 35 Ill. Adm. Code 1100.201(a) titled, Prohibitions, provides, in pertinent part, as follows:

- a. No person shall conduct any CCDD fill operation in violation of the Act or any regulations or standards adopted by the Board. [415 ILCS 5/22.51(a)].

10. Section 3.315 of the Act, of the Act, 415 ILCS 5/3.315 (2010), provides as follows:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

11. SSG, a corporation, and SJLD, a limited liability company, are both persons as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

12. Section 1100.103 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.103, titled, Definitions, provides as follows:

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part will be the same as that applied to the same words or terms in the Environmental Protection Act [415 ILCS 5]:

“Facility” means the areas of a site and all equipment and fixtures on a site used for a CCDD fill operation. A facility consists of an entire CCDD fill operation. All structures used in connection with or to facilitate the CCDD fill operation will be considered a part of the facility.

* * *

“Operator” means a person responsible for the operation and maintenance of a CCDD fill operation.

“Owner” means a person who has any direct or indirect interest in a CCDD fill operation or in land on which a person operates and maintains a CCDD fill operation. A “direct or indirect interest” does not include the ownership of publicly traded stock. The “owner” is the “operator” if there is no other person who is operating and maintaining a CCDD fill operation.

“Professional engineer” means a person who has registered and obtained a seal pursuant to the Professional Practice Act of 1989 [225 ILCS 325].

* * *

13. The site where CCDD fill operation is being conducted is a “Facility” as that term is defined in Section 1100.103 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.103.

14. SJLD is an “owner” of the Site and SSG is the operator of the Wiensland Site, as those terms are defined in Section 1100.103 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.103.

15. Section 1100.205(a)(b)(c) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.205(a)(b)(c), titled, Load Checking, provides in pertinent part, as follows:

The owner or operator must institute and conduct a load checking program designed to detect attempts to dispose of waste at the facility. At a minimum, the load checking program must consist of the following components:

a) Routine Inspections

- 1) An inspector designated by the facility must inspect every load before its acceptance at the facility utilizing an elevated structure, a designated ground level inspection area, or another acceptable method as specified in the Agency permit. In addition to a visual inspection, the inspector must use an instrument with a photo ionization detector utilizing a lamp of 10.6 eV or greater or an instrument with a flame ionization detector, or other monitoring devices approved by the Agency, to inspect each load. All instruments shall be interpreted based on the

manufacturer's margin of error. Any reading in excess of background levels using any of these instruments must result in the rejection of the inspected load. In addition, any reading in excess of background levels on any monitoring device used by the Agency during an Agency inspection must result in the rejection of the inspected load.

- 2) Cameras or other devices may be used to record the visible contents of shipments. Where such devices are employed, their use should be designated on a sign posted near the entrance to the facility.

b) Random Inspections

- 1) In addition to the inspections required under subsection (a) of this Section, an inspector designated by the facility must conduct a discharge inspection of at least one randomly selected load delivered to the facility each day. The driver of the randomly selected load must be directed to discharge the load at a separate, designated location within the facility. The inspector must conduct an inspection of the discharged material that includes, but is not limited to, additional visual inspection and additional instrument testing using the instruments required under subsection (a)(1) of this Section. All instruments shall be interpreted based on the manufacturer's margin of error. Any reading in excess of background levels using any of these instruments must result in the rejection of the inspected load. In addition, any reading in excess of background levels on any monitoring device used by the Agency during an Agency inspection must result in the rejection of the inspected load.
- 2) Cameras or other devices may be used to record the visible contents of shipments. Where such devices are employed, their use should be designated on a sign posted near the entrance to the facility.

c) Documentation of Inspection Results

The documentation for each inspection must include, at a minimum, the following:

- 1) The date and time of the inspection, the name of the hauling firm, the vehicle identification number or license plate number, and the source of the CCDD;

- 2) The results of the routine inspection required under subsection (a) of this Section, including, but not limited to, the monitoring instruments used, whether the load was accepted or rejected, and for rejected loads the reason for the rejection;
- 3) The results of any random inspection required under subsection (b) of this Section, including, but not limited to, the monitoring instruments used, whether the load was accepted or rejected, and for rejected loads the reason for the rejection; and
- 4) The name of the inspector

* * *

16. Operating Condition I.1 of Permit No. CCDD2007-042-DE/OP provides as follows:

I. Operating Conditions

1. The operator must implement the load checking program proposed in the application for Permit No. CCDD2007-042-DE/OP (Log No. CCDD2007-042). If materials other than CCDD are discovered the load checker must prepare a report describing the results of each inspection. Documentation of the records for the facility must be kept for a minimum of three years at the facility or in some alternative location specified in the Illinois EPA permit. The documentation must be available for inspection and copying by the Illinois EPA upon request during normal business hours. Also, before the end of the operating day the operator must, by facsimile to 217-524-1991, or another method approved by the Illinois EPA, notify the Manager of the BOL Field Operations Section and provide the information described in condition I.2.c.

17. On March 18, 2011, the Illinois EPA conducted an inspection of the Wiensland Site to determine regulatory status and compliance with the Act, Board CCDD Regulations, and Respondents' permit.

18. During the March 18, 2011, inspection, the Illinois EPA observed that Respondents did not implement and document a load checking program at the Wiensland Site.

19. By failing to implement and document a load checking program, Respondents violated Section 22.51(a) and 22.51(b)(3)(i) and (ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(i) and (ii) (2010), and 35 Ill. Adm. Code 1100.201(a), 1100.205(a)(b)(c) and permit condition I.1, of Permit No. CCDD2007-042-DE/OP.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully prays the Board enter an order in favor of Complainant and against the Respondents, SHERIDAN-JOLIET LAND DEVELOPMENT, LLC, and SHERIDAN SAND & GRAVEL, CO., on this Count I:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;

2. Finding that the Respondents have violated Section 22.51(a) and 22.51(b)(3)(i) and (ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(i) and (ii) (2010), and 35 Ill. Adm. Code 1100.201(a), 1100.205(a)(b)(c) and permit condition I.1 of Permit No. CCDD2007-042-DE/OP;

3. Ordering the Respondents to cease and desist from any further violations of Section 22.51(a) and 22.51(b)(3)(i) and (ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(i) and (ii) (2010), and 35 Ill. Adm. Code 1100.201(a), 1100.205(a)(b)(c) and permit condition I.1 of Permit No. CCDD2007-042-DE/OP;

4. Ordering the Respondents to operate the CCDD facility in compliance with Section 22.51(a) and 22.51(b)(3)(i) and (ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(i)

and (ii) (2010), and 35 Ill. Adm. Code 1100.201(a), 1100.205(a)(b)(c) and permit condition I.1 of Permit No. CCDD2007-042-DE/OP;

5. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, Board CCDD Regulations and permit condition, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010);

6. Ordering Respondents, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT II

FAILURE TO OBTAIN SOIL CERTIFICATION

1-14. Complainant realleges and incorporates by reference herein paragraphs 1 through 7 and paragraphs 9 through 14 and 17 of Count I as paragraphs 1 through 14 of this Count II.

15. During the March 18, 2010, inspection the Illinois EPA observed a pile of soil at the Wiensland Site and asked for certification forms which show that soil is uncontaminated.

16. Section 22.51(f)(2)(B)(i) and (ii) of the Act, 415 ILCS 5/22.51(f)(2)(B)(i) and (ii) (2010), provides as follows:

(f)(2) Until the effective date of the Board rules adopted under subdivision (f)(1) of this Section, and in addition to any other requirements, owners and operators of clean construction or demolition debris fill operations must do all of the following in subdivisions (f)(2)(A) through (f)(2)(D) of this Section for all clean construction or demolition debris and uncontaminated soil accepted for use as fill material. The requirements in subdivisions (f)(2)(A) through (f)(2)(D) of this Section shall not limit any rules adopted by the Board.

- (B) For all soil, obtain either (i) a certification from the owner or operator of the site from which the soil was removed that the site has never been used for commercial or industrial purposes and is presumed to be uncontaminated soil or (ii) a certification from a licensed Professional Engineer or licensed Professional Geologist that the soil is uncontaminated soil. Certifications required under this subdivision (f)(2)(B) must be on forms and in a format prescribed by the Agency.

17. As of the date of filing of this Complaint, the Board has not adopted rules under Section 22.51(f) (1) of the Act, 415 ILCS 5/22.51(f)(1) (2010).

18. During the March 18, 2010, inspection, Respondents did not provide to the Illinois EPA any certification from the owner or operator of the site from which the soil was removed that the site had never been used for commercial or industrial purposes and is presumed to be uncontaminated soil or a certification from a licensed professional engineer that the soil is uncontaminated.

19. By failing to obtain a soil certification from the owner or operator of the site of origin or from a licensed professional engineer that the soil is uncontaminated, Respondents violated Section 22.51(a) and 22.51(f)(2)(B)(i) and (ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(B)(i) and (ii) (2010), and 35 Ill. Adm. Code 1100.201(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondents, SHERIDAN-JOLIET LAND DEVELOPMENT, LLC, and SHERIDAN SAND & GRAVEL CO., on this Count II:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;

2. Finding that the Respondents have violated Section 22.51(a) and 22.51(f)(2)(B)(i) and (ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(B)(i) and (ii) (2010), and 35 Ill. Adm. Code 1100.201(a);

3. Ordering the Respondents to cease and desist from any further violations of Section 22.51(a) and 22.51(f)(2)(B)(i) and (ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(B)(i) and (ii) (2010), and 35 Ill. Adm. Code 1100.201(a);

4. Ordering the Respondents to operate the CCDD facility in compliance with the requirements of Section 22.51(a) and 22.51(f)(2)(B)(i) and (ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(B)(i) and (ii) (2010), and 35 Ill. Adm. Code 1100.201(a);

5. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board CCDD Regulations an additional Ten Thousand Dollars (\$10,000.00) per day for each day of violation pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010);

6. Ordering Respondents, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT III

VIOLATION OF RECORDKEEPING REQUIREMENTS

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count II and paragraph 8 of Count I as paragraphs 1 through 15 of this Count III.

16. Section 22.51(f)(3) of the Act, 415 ILCS 5/22.51(f)(3) (2010), provides as follows:

- (3) Owners and operators of clean construction or demolition debris fill operations must maintain all documentation required under subdivision (f)(2) of this Section for a minimum of 3 years following the receipt of each load of clean construction or demolition debris or uncontaminated soil.... Copies of the documentation must be made available to the Agency and to units of local government for inspection and copying during normal business hours.

17. Section 1100.205(i) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.205(i), provides in pertinent part as follows:

* * *

- i) Documentation required under this Section must be kept for a minimum of 3 years at the facility or in some alternative location specified in the Agency permit. The documentation must be available for inspection and copying by the Agency upon request during normal business hours.

18. Section 1150.110 of the Board CCDD Regulations, 35 Ill. Adm. Code 1150.110, titled, Retention of Records, provides as follows:

Copies of all records required to be kept under this Part shall be retained by the site operator for three years and must be made available at the site during the normal business hours of the operator for inspection and photocopying by the Agency.

19. Section 1150.200 of the Board CCDD Regulations, 35 Ill. Adm. Code 1150.200, titled, Records, provides as follows:

- a) The operator of a CCDD fill operation shall keep a Daily Record of the CCDD and the uncontaminated soil accepted for use as fill material at the CCDD fill operation.
- b) For purposes of reporting and submitting fees, the operator shall prepare the following records from the Daily Record:
 - 1) Monthly Fill Record; and
 - 2) Quarterly Fill Summary.

- c) Operators of CCDD fill operations shall submit each Monthly Fill Record, each Quarterly Fill Summary, and each fee payment;
 - 1) on the basis of weight, in tons, when the operator has weighed the CCDD and the uncontaminated soil received with a device for which certification has been obtained under the Weights and Measures Act [225 ILCS 470]; or
 - 2) on the basis of volume, as measured in cubic yards, when the measurement of the CCDD and the uncontaminated soil received is based on volume.
- d) Each Monthly Fill Record and Quarterly Fill Summary submitted to the Agency must be on forms and in a format prescribed and provided by the Agency.
- e) The Monthly Fill Record and Quarterly Fill Summary must be kept in accordance with Section 1150.110 of this Part.

20. Section 1150.205 of the Board CCDD Regulations, 35 Ill. Adm. Code 1150.205, titled, Daily Fill Record, provides as follows:

- a) The Daily Fill Records must be maintained at the site of the CCDD fill operation and must include the Agency designated site number and the site name.
- b) For each load of CCDD or uncontaminated soil accepted for use as fill material at the CCDD fill operation, the following information must be recorded in the Daily Fill Record, in addition to any other information required by the Act and rules adopted under the Act:
 - 1) The date and day of the week the load was accepted.
 - 2) The quantity, in tons weighed or cubic yards measured, of CCDD or uncontaminated soil accepted for use as fill material at the CCDD fill operation.

21. Section 1150.210 of the Board CCDD Regulations, 35 Ill. Adm. Code 1150.210, titled, Monthly Fill Record, provides as follows:

- a) Monthly Fill Records must be maintained at the site of the CCDD fill operation and must include the following information:

- 1) The Agency designated site number, the site name, and the calendar month for which the record applies.
 - 2) The total quantity of CCDD and uncontaminated soil accepted for use as fill material, in tons weighed or cubic yards measured, for each day of the calendar month.
- b) On or before April 15, July 15, October 15 and January 15, the owner or operator of the CCDD fill operation shall submit to the Agency the Monthly Fill Records for the preceding three calendar months. The Monthly Fill Records must be submitted to the address in Section 1150.305.
 - c) Upon issuance of a valid CCDD fill operation permit pursuant to 35 Ill. Adm. Code 1100, and until termination of the permit, the owner or operator of the CCDD fill operation shall submit Monthly Fill Records to the Agency in accordance with this Section, regardless of the amount of CCDD and uncontaminated soil accepted for use as fill material by the CCDD fill operation.

22. Section 1150.215 of the Board CCDD Regulations, 35 Ill. Adm. Code 1150.215, titled, Quarterly Fill Summary, provides as follows:

- a) The Quarterly Fill Summary must be maintained at the site of the CCDD fill operation and must include the following information:
 - 1) The Agency designated site number, the site name, and the calendar quarter for which the summary applies.
 - 2) The total quantity of CCDD and uncontaminated soil accepted for use as fill material in tons weighed or cubic yards measured:
 - A) for each month of the calendar quarter;
 - B) for the entire calendar quarter; and
 - C) for the calendar year-to-date.
 - 3) The fee rate applicable under Section 22.51b of the Act.
- b) The Quarterly Fill Summary must be received by the Agency on or before April 15, July 15, October 15 and January 15 of each year and must cover the preceding three calendar months. The

Quarterly Fill Summary must be submitted to the address in Section 1150.305.

- c) Upon issuance of a valid CCDD fill operation permit pursuant to 35 Ill. Adm. Code 1100, and until termination of the permit, the owner or operator of the CCDD fill operation shall submit a Quarterly Fill Summary to the Agency in accordance with this Section, regardless of the amount of CCDD and uncontaminated soil accepted for use as fill material by the CCDD fill operation.

23. During the March 18, 2011, inspection, the Illinois EPA observed that the

Respondents:

- did not maintain at the Wiensland Site the required daily fill record, recording the date and day of the week, along with the quantity in tons weighed or cubic yards measured of CCDD or uncontaminated soil accepted for use as fill material in violation of 35 Ill. Adm. Code 1150.200 and 1150.205.
- did not maintain at the Wiensland Site the required Monthly Fill Record and did not submit to the Illinois EPA the Monthly Fill Record on or before October 15, 2010, January 15, 2011, and April 15, 2011, in violation of 35 Ill. Adm. Code 1150.200 and 1150.210.
- did not maintain at the Wiensland Site the Quarterly Fill Summary and did not submit to the Illinois EPA the Quarterly Fill Summary on or before October 15, 2010, January 15, 2011, and April 15, 2011, in violation of Section 1150.200 and 1150.215 of the Board CCDD Regulations 35 Ill. Adm. Code 1150.215.

24. By failing to adhere to the record keeping requirements at the Wiensland Site, Respondents violated Section 22.51(a), 22.51(b)(3)(ii) and 22.51(f)(3) of the Act, 415 ILCS 5/22.51(a), 22.51(b)(3)(ii) and 22.51(f)(3) (2010), and 35 Ill. Adm. Code Sections 1100.201(a), 1100.205(i), 1150.110, 1150.200, 1150.205, 1150.210 and 1150.215.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondents,

SHERIDAN-JOLIET LAND DEVELOPMENT, LLC, and SHERIDAN SAND & GRAVEL
CO. on this Count III:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;

2. Finding that the Respondents have violated Section 22.51(a), 22.51(b)(3)(ii) and 22.51(f)(3) of the Act, 415 ILCS 5/22.51(a), 22.51(b)(3)(ii) and 22.51(f)(3) (2010), and 35 Ill. Adm. Code 1100.201(a), 1100.205(i), 1150.110, 1150.200, 1150.205, 1150.210 and 1150.215;

3. Ordering the Respondents to cease and desist from any further violations of Section 22.51(a), 22.51(b)(3)(ii) and 22.51(3)(f) of the Act, 415 ILCS 5/22.51(a), 22.51(b)(3)(ii) and 22.51(3)(f) (2010), and 35 Ill. Adm. Code 1100.201(a), 1100.205(i), 1150.110, 1150.200, 1150.205, 1150.210 and 1150.215;

4. Ordering the Respondents to operate the CCDD facility in compliance with Section 22.51(a), 22.51(b)(3)(ii) and 22.51(3)(f) of the Act, 415 ILCS 5/22.51(a), 22.51(b)(3)(ii) and 22.51(3)(f) (2010), and 35 Ill. Adm. Code 1100.201(a), 1100.205(i), 1150.110, 1150.200, 1150.205, 1150.210 and 1150.215;

5. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and an additional Ten Thousand Dollars (\$10,000.00) per day for each day of violation pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010);

6. Ordering Respondents, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT IV

FAILURE TO SUBMIT QUARTERLY FEES

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 15 of Count III as paragraphs 1 through 15 of this Count IV.

16. Section 22.51b of the Act, 415 ILCS 5/22.51b (2010), provides as follows:

Fees for permitted facilities accepting clean construction or demolition debris or uncontaminated soil.

(a) The Agency shall assess and collect a fee from the owner or operator of each clean construction or demolition debris fill operation that is permitted or required to be permitted by the Agency. The fee assessed and collected under this subsection shall be

(b) The Agency shall establish rules relating to the collection of the fees authorized by subsection (a) of this Section. These rules shall include, but are not limited to, the following:

* * *

(3) The time and manner of payment of fees to the Agency, which payments shall not be more often than quarterly.

17. Section 21(k) of the Act, 415 ILCS 5/21(k) (2010), provides as follows:

No person shall:

(k) Fail or refuse to pay any fee imposed under this Act.

18. Section 1150.300(a) of the Board CCDD Regulations, 35 Ill. Adm. Code 1150.300(a), titled, Quarterly Submission of Payment, provides as follows:

a) Payment of the fee due under Section 22.51b of the Act must be made on a quarterly basis with the submission of the Quarterly Fill Summary. The payment must be received by the Agency on or before April 15, July 15, October 15 and January 15 of each year and must cover the preceding three calendar months.

19. During the March 18, 2011, inspection, the Illinois EPA observed that fees required for permitted facilities under Section 22.51b of the Act were not made on or before October 15, 2010, January 15, 2011, and April 15, 2011.

20. By failing to submit quarterly fee payments as required by 35 Ill. Adm. Code 1150.300(a), Respondents violated Section 21(k), 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/21(k), 22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code Sections 1100.201(a) and 1150.300(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondents, SHERIDAN-JOLIET LAND DEVELOPMENT, LLC, and SHERIDAN SAND & GRAVEL CO. on this Count IV:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;

2. Finding that the Respondents have violated Section 21(k), 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/21(k), 22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a) and 1150.300(a);

3. Ordering the Respondents to cease and desist from any further violations of Section 21(k), 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/21(k), 22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a) and 1150.300(a);

4. Ordering the Respondents to operate the CCDD facility in compliance with Section 21(k), 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/21(k), 22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a) and 1150.300(a);

5. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board CCDD Regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010);

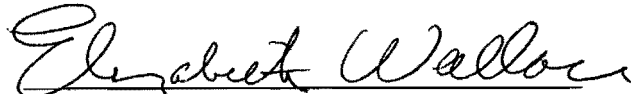
6. Ordering Respondents, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultants fees; and

7. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

By:



ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

ZEMEHERET BERKET-AB
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(312) 814-3816

CERTIFICATE OF SERVICE

I, ZEMEHERET BEREKET-AB, an Assistant Attorney General, do certify that I caused to be served on this 31st day of October 2012, the foregoing Notice of Filing, and a Complaint, upon Mr. Branko Vardijan, via Certified mail by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois.



ZEMEHERET BEREKET-AB