

ILLINOIS POLLUTION CONTROL BOARD  
August 21, 2014

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, BOARD OF )  
EDUCATION OF THE CITY OF CHICAGO, )  
a body politic and corporate, )  
)  
Respondents. )

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

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), Public Building Commission of Chicago, (PBC), and the Board of Education of the City of Chicago (CPS), (collectively respondents)<sup>1</sup>. The complaint concerns the site of the Westinghouse Vocational High School, a 7.5 acre parcel of land located at 401 North Sawyer Avenue, Chicago, Cook County. On June 17, 2014, the Board received a stipulation and proposal for settlement as to respondent Reliable (Stip.), acceptance of which would close this docket. For the reasons below, the Board accepts the stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2012)), 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 (2012); 35 Ill. Adm. Code 103. In this case, the People allege that Reliable violated Sections 21(a), 21(d)(1), and

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<sup>1</sup> On December 2, 2011, the Board accepted stipulations and settlements from PBC and CPS, as well as SGL. *See People v. Reliable Materials Lyons, LLC et. al*, PCB 12-52 (Dec. 2, 2011). On July 12, 2012, the Board accepted a stipulation and settlement from GSG. *See People v. Reliable Materials Lyons, LLC et. al*, PCB 12-52 (July 12, 2012). On August 9, 2012, the Board accepted a stipulation and settlement from OCA. *See People v. Reliable Materials Lyons, LLC et. al*, PCB 12-52 (Aug. 9, 2012).

21(d)(2) of the Act (415 ILCS 5/21(a), 21(d)(1), 21(d)(2) (2012)) and Section 809.302(a) of the Board's Waste Disposal Regulations (35 Ill. Adm. Code 809.302(a)) by open dumping waste, conducting a waste disposal operation without a permit, and accepting special waste from haulers without manifests.

On June 17, 2014, the People and Reliable 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) (2012)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2012)), 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 July 14, 2014. The Board did not receive any requests for hearing. The Board grants the parties' request for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2012); 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. 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 Reliable'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) (2012)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Reliable does not admit to the alleged violations, but has entered into the stipulation for purposes of settlement. *Stip.* at 3.

The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2012)), which may mitigate or aggravate the civil penalty amount. Reliable agrees to pay a civil penalty of \$39,300. Reliable has also agreed to perform various measures including sampling the existing dewatering well discharge and submitting sampling results to the Illinois Environmental Protection Agency. Finally, Reliable has agreed to a supplemental environmental project consisting of a \$55,000 payment to the Illinois Department of Natural Resources' (IDNR) Illinois Wildlife Preservation Fund "for the restoration of the Bluff Spring Fen Nature Preserve." *Stip.* at 12. The People and Reliable have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement. The parties have agreed to language allowing for modification of the stipulation and proposed settlement. The Board notes, however, that any modification of the stipulation and proposed settlement made by the parties and not accepted by the Board in a subsequent Board order is not enforceable under the Act.

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. However, any modification of the stipulation and proposed settlement made by the parties will not be incorporated into this Board order and will not be enforceable under the Environmental Protection Act (415 ILCS 5 (2012)) (Act) unless accepted by the Board in a subsequent order.

2. Reliable Materials Lyons, LLC (Reliable) must pay a civil penalty of \$39,300 by September 22, 2014, which is the first business day following the 30th day after the date of this order. Reliable 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 number, case name, and Reliable's federal employer identification number must be included on the certified check or money order.
3. Reliable 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 IL 62794-9276

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

Stephen J. Sylvester  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 West Washington Street, Suite 1800  
Chicago IL 60602

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Act (415 ILCS 5/42(g) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
5. Reliable must pay \$55,000 by certified check or money order to the IDNR's Illinois Wildlife Preservation Fund as a supplemental environmental project for the restoration of the Bluff Spring Fen Nature Preserve. The payment must be made by September 22, 2014, which is the first business day following the 30th day after the date of this order.
6. Reliable must cease and desist from future violations of the Act and Board regulations that were the subject of the complaint.

IT IS SO ORDERED.

Member 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) (2012); *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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on August 21, 2014, by a vote of 3 to 0.

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

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John T. Therriault, Clerk  
Illinois Pollution Control Board