ILLINOIS POLLUTION CONTROL BOARD March 19, 2015

| PEOPLE OF THE STATE OF ILLINOIS, |) | |
|----------------------------------|---|----------------------|
| Complainant, |) | |
| V. |) | PCB 15-106 |
| CLEAN HARBORS ENVIRONMENTAL |) | (Enforcement - Land) |
| SERVICES, INC., a Massachusetts |) | |
| Corporation, |) | |
| Respondent. |) | |

ORDER OF THE BOARD (by D. Glosser):

On December 5, 2014 the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a one-count complaint against Clean Harbors Environmental Services Inc. (respondent). The complaint concerns respondent's property located at 1750 Fosterberg Road, in Alton, Madison County. Accompanying the complaint was a stipulation, proposal for settlement, and request for relief from the hearing requirement. The parties therefore seek to settle the complaint without a hearing. For the reasons below, the Board accepts the parties' 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 respondent violated Sections 21(d) and (e) of the Act (415 ILCS 5/21(d) and (e) (2012)) and Sections 807.201 and 807.202(a) of the Board's Waste Disposal Regulations (35 Ill. Adm. Code 807.201 and 807.202) by operating a nonhazardous waste storage operation without permits.

On December 5, 2014, simultaneously with the People's complaint, the People and respondent 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 in *The Telegraph* on February 6, 2015. 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. *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 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) (2012)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Respondent does not admit the findings of fact and conclusions of law alleged in the complaint. 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. Respondent agrees to pay a civil penalty of \$10,000 and to complete a supplemental environmental project for a fair market value of up to \$20,000. The People and respondent have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

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.
- 2. Clean Harbors Environmental Services Inc. (respondent) must pay a civil penalty of \$10,000 no later than April 20, 2015, which is the first business day following the 30th day after the date of this order. Respondent 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 respondent's federal tax identification number must appear on the face of the certified check or money order.
- 3. Respondent 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

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

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

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection 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. Respondent must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

IT IS SO ORDERED.

Board Member G. M. Keenan voted present. Board Member C. K. Zalewski 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 III. 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 III. 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 March 19, 2015, by a vote of 4-0.

John T. Therriault, Clerk

Illinois Pollution Control Board

Under the proposed stipulation, the respondent does not admit "the findings of fact and conclusions of law alleged in the complaint" and agrees to pay a civil penalty of \$10,000.

Unless the Board determines that a hearing is needed, the Board must cause notice of the stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board will deny the parties' request for relief and hold a hearing. See 415 ILCS 5/31(c)(2) (2012); 35 Ill. Adm. Code 103.300(b), (c). The Board directs the Clerk to provide the required notice.

IT IS SO ORDERED.

Board Member C.K. Zalewski abstains.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 18, 2014, by a vote of $_-_$.

John T. Therriault, Clerk

Illinois Pollution Control Board