

ILLINOIS POLLUTION CONTROL BOARD

June 1, 2006

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	
)	PCB 05-53
CLEAN HARBORS ENVIRONMENTAL)	(Enforcement - Land)
SERVICES, INC., a Massachusetts)	
corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On September 15, 2004, 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. (Clean Harbors Environmental Services). *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns Clean Harbors Environmental Services' less than 10-day hazardous waste transfer station at Three Rivers RV and Boat Storage in South Roxana, Madison County. The parties now seek to settle. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.* (2004)), 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 (2004); 35 Ill. Adm. Code 103. In this case, the People allege that Clean Harbors Environmental Services violated Sections Section 21(d) and (e) of the Act (415 ILCS 5/21(d) and (e) (2002)) and 35 Ill. Adm. Code 807.201 and 807.202 by conducting a non-hazardous waste storage facility without a permit.

On April 11, 2006, the People and Clean Harbors Environmental Services 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) (2004)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2004)), 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 from hearing. The Board published newspaper notice in the *Alton Telegraph* on April 28, 2006. 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) (2004); 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 Clean Harbors Environmental Services' 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) (2004)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

Clean Harbors Environmental Services admits the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2004)), which may mitigate or aggravate the civil penalty amount. Clean Harbors Environmental Services agrees to pay a civil penalty of \$12,000, which the People further assert will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations. Clean Harbors Environmental Services further agrees to engage in a supplemental environmental project (SEP): over the next two years following adoption of this stipulation and settlement agreement, Clean Harbors Environmental will undertake hazardous waste disposal and related collection and transportation services having a fair market retail price up to \$18,000.

The People and Clean Harbors Environmental Services have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement. This docket is now closed.

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, through its attorney of record, must pay a civil penalty of \$12,000 no later than July 3, 2006, which is the first business day after the 30th day after the date of this order. Clean Harbors Environmental Services must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Environmental Protection Trust Fund. The case number, case name, and Clean Harbors Environmental Services's social security number or federal employer identification number must be included on the certified check or money order.
3. Clean Harbors Environmental Services, through its attorney of record, must send the certified check, money order, or electronic funds transfer to the following person at the indicated address:

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

4. Clean Harbors Environmental Services, through its attorney of record, must send a copy of the certified check, money order, or record of electronic funds transfer and any transmittal letter to the following person at the indicated address:

Peggy Poitevint, Assistant Attorney General
 Environmental Bureau
 500 South Second Street
 Springfield, Illinois 62702

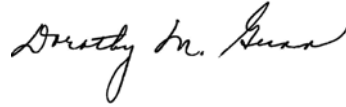
Melanie Jarvis, Assistant Counsel
 Illinois Environmental Protection Agency
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, Illinois 62794-9276

5. Clean Harbors Environmental Services must engage in a supplemental environmental project (SEP): over the two years following adoption of this stipulation and settlement agreement, until June 1, 2008, Clean Harbors Environmental will undertake hazardous waste disposal and related collection and transportation services having a fair market retail price up to \$18,000. Clean Harbor Environmental must demonstrate the fair market value of the services to the Illinois Environmental Protection Agency.
6. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2004)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2004)).
7. Clean Harbors Environmental Services must cease and desist from the alleged violations.

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) (2004); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on June 1, 2006, by a vote of 4-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn".

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board