

ILLINOIS POLLUTION CONTROL BOARD

August 17, 2006

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 06-136
)	(Enforcement - Land)
D & L LANDFILL, INC., an Illinois)	
corporation,)	
)	
Respondent.)	

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

On February 9, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against D & L Landfill, Inc. (D & L Landfill). *See* 415 ILCS 5/31(c)(1) (2004); 35 Ill. Adm. Code 103.204. The complaint concerns D & L Landfill's landfill facility at 1212 Ayers Road, Greenville, Bond 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 D & L Landfill violated Sections 21(d)(1), (d)(2), and (o)(5) of the Act (415 ILCS 5/21(d)(1), (d)(2), and (o)(5) (2004)) and 35 Ill. Adm. Code 811.106(a) and 811.313(a). The People further allege that D & L Landfill violated these provisions by (1) failing to cover waste at the conclusion of an operational day; and (2) failing to cover waste with one foot of compacted clean soil within 60 days of placement in the fill.

On July 13, 2006, the People and D & L Landfill 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 *The Greenville Advocate* on July 18, 2006; any timely hearing request was due to be filed August 8, 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 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) (2004)), which bears on the reasonableness of the circumstances surrounding 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.

D & L Landfill admits the alleged violations. D & L Landfill agrees to pay a civil penalty of \$13,250. The People assert this penalty will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

The People and D & L Landfill have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement. Consistent with the stipulation, the Board orders D & L Landfill to pay the civil penalty with seven days, rather than within 30 days as is the Board's usual custom. 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. D & L Landfill, through its attorney of record, must pay a civil penalty of \$13,250 no later than August 24, 2006, which is the first business day after the 7th day after the date of this order. D & L Landfill must pay the civil penalty by certified check, money order, or electronic funds transfer, payable to the Illinois Environmental Protection Agency, designated to the Environmental Protection Trust Fund. The case number, case name, and D & L Landfill's federal employer identification number must be included on the certified check, money order, or electronic funds transfer statement.
3. D & L Landfill, 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. D & L Landfill, 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:

P. Poitevint
 Office of the Attorney General
 Environmental Bureau
 500 South Second Street
 Springfield, Illinois 62702

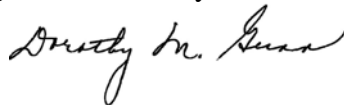
Melanie Jarvis, Assistant Counsel
 Illinois Environmental Protection Agency
 1021 North Grand Avenue East
 P.O. Box 19276
 Springfield, Illinois 62794-9276

5. 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)).
6. D & L Landfill 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 August 17, 2006, by a vote of 4-0.



Dorothy M. Gunn, Clerk
 Illinois Pollution Control Board