

ILLINOIS POLLUTION CONTROL BOARD

March 6, 2008

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB 06-177
	)	(Enforcement – Land)
SHERIDAN SAND & GRAVEL CO., an	)	
Illinois corporation,	)	
	)	
Respondent.	)	

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

On May 22, 2006, the People of the State of Illinois (People), on the motion of the Illinois Attorney General and at the request of the Illinois Environmental Protection Agency, filed a five-count complaint against Sheridan Sand & Gravel Co., an Illinois corporation (respondent). *See* 415 ILCS 5/31(c)(1) (2006); 35 Ill. Adm. Code 103.204. The complaint concerns the respondent's sand and gravel mine located at 2679 North 4201 Road, Sheridan, LaSalle County. The parties now seek to settle 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 (2006)), 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 (2006); 35 Ill. Adm. Code 103. In this case, the People allege that respondent violated Sections 21(k), 55(d)(1), 55(e), 55(g) and 55.6(b) of the Act (415 ILCS 5/21(k), 55(d)(1), 55(e), 55(g), 55.6(b) (2006)), and Sections 848.202(b)(4) and (5), 848.304(a), 848.304(c), 848.305, and 848.601(a)(1) and (2) of the Board's regulations on the management of used and waste tires (35 Ill. Adm. Code 848.202(b)(4), (5), 848.304(a), 848.304(c), 848.305, 848.601(a)(1), (2)). The People further allege that respondent violated these provisions by failing to register as a tire storage site, improper storage of used or waste tires, failing to comply with tire storage notification and recordkeeping requirements, failing to pay the registration fee, and failing to comply with tire transporter requirements.

On January 22, 2008, 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) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)), 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 *LaSalle News-Tribune* on January 28, 2008. 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) (2006); 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) (2006)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Respondent does not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2006)), which may mitigate or aggravate the civil penalty amount. Respondent agrees to pay a civil penalty of \$10,000. 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. Sheridan Sand & Gravel Co. must pay a civil penalty of \$10,000 no later than April 7, 2008, which is first business day following the 30th day after the date of this order. Sheridan Sand & Gravel Co. must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency designated to the Illinois Environmental Protection Trust Fund. The case name, case number, and Sheridan Sand & Gravel Co.'s Federal Employer Identification Number must appear on the face of the certified check or money order.
3. Sheridan Sand & Gravel Co. 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

Sheridan Sand & Gravel Co. must send a copy of the certified check or money order and any transmittal letter to:

Vanessa Vail  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington Street, 18th Floor  
Chicago, Illinois 60602

Paul Jagiello  
Assistant Counsel  
Illinois Environmental Protection Agency  
9511 West Harrison Street  
Des Plaines, Illinois 60016

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).
5. Sheridan Sand & Gravel Co. 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) (2006); *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.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on March 6, 2008, by a vote of 4-0.



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John Therriault, Assistant Clerk  
Illinois Pollution Control Board