

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposals for settlement. *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 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) (2006)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Under the proposed stipulations, both respondents admit to the alleged violations. Respondents also agree to pay civil penalties in the amount of \$10,000.00 (Summer Ridge), and \$5,000.00 (Stark Excavating).

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. Summer Ridge agrees to pay a civil penalty of \$10,000.00. Stark Excavating agrees to pay a civil penalty of \$5,000.00. The People and respondents have satisfied Section 103.302. The Board accepts the stipulations and proposals for settlement.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

1. The Board accepts and incorporates by reference the stipulations and proposals for settlement.
2. Summer Ridge, LLC must pay a civil penalty of \$10,000.00 and Stark Excavating, Inc. must pay a civil penalty of \$5,000.00. The payments must be made no later than June 8, 2009, which is the first business day after the 30th day after the date of this order. Respondents must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Trust Fund. The case number, case name, and respondent's federal employer identification number must be included on each respondent's respective certified check or money order.
3. Respondents must send the certified checks or money orders to:

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

Respondents must send copies of the certified checks or money orders and any transmittal letters to:

Raymond J. Callery
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) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).
5. Respondents Summer Ridge, LLC and Stark Excavating, Inc. 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.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on May 7, 2009, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board