

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
LISA MADIGAN, Attorney General of the)
State of Illinois,)

Complainant,)

v.)

PCB No. 13-
(Enforcement – Land)

SHERIDAN-JOLIET LAND)
DEVELOPMENT, LLC,)
an Illinois limited-liability company,)
and SHERIDAN SAND & GRAVEL CO.,)
an Illinois corporation,)
(4201 Road Site))

Respondents.)

NOTICE OF FILING

TO: Mr. Branko Vardijan
221 N. Washtenaw Avenue
Chicago, Illinois 60612

Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Ste. 11-500
Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a Complaint, Notice of Filing, and a Certificate of Service on behalf of the People of the State of Illinois, a copy of which is attached and herewith served upon you.

Section 103.204(f) of the Pollution Control Board Procedural Rules, 35 Ill. Adm. Code 103.204(f) provides: "Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure,

you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney."

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

BY:



ZEMEHERET BEREKET-AB
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Flr.
Chicago, IL 60602
(312) 814-3816

DATE: October 31, 2012

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
LISA MADIGAN, Attorney General of the)	
State of Illinois,)	
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Complainant,)	
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v.)	PCB No. 13-
)	(Enforcement – Land)
SHERIDAN-JOLIET LAND)	
DEVELOPMENT, LLC,)	
an Illinois limited-liability company,)	
and SHERIDAN SAND & GRAVEL CO.,)	
an Illinois corporation,)	
(4201 Road Site))	
)	
Respondents.)	

COMPLAINT

PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, complains of the Respondents, SHERIDAN-JOLIET LAND DEVELOPMENT, LLC, an Illinois limited-liability company, and SHERIDAN SAND & GRAVEL CO., an Illinois domestic corporation, as follows:

COUNT I

**FAILURE TO IMPLEMENT AND DOCUMENT
A LOAD CHECKING PROGRAM**

1. This complaint is brought on behalf of the People of the State of Illinois, by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency (“Illinois EPA”), pursuant to Section 31 of the Illinois Environmental Act (“Act”), 415 ILCS 5/31 (2010), against the Respondents.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2010), and charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent, SHERIDAN-JOLIET LAND DEVELOPMENT, LLC., (“SJLD”) is an Illinois limited-liability company in good standing with the Illinois Secretary of State. At all times relevant to the Complaint, SJLD owns a clean construction or demolition debris (“CCDD”) facility located at 2679 N. 4201 Road, Sheridan, LaSalle County, Illinois (“4201 Road Site”).

4. Respondent, SHERIDAN SAND & GRAVEL CO. (“SSG”) is an Illinois corporation in good standing with the Illinois Secretary of State. SSG is the operator of the 4201 Road Site.

5. On June 30, 2008, the Illinois EPA issued Permit No. CCDD2007-040-DE/OP to SJLD as owner and SSG as operator to develop a new CCDD fill operation at the 4201 Road Site. The permit expires on June 15, 2018.

6. Section 22.51(a) of the Act, 415 ILCS 5/22.51(a) (2010), provides as follows:

Clean Construction or Demolition Debris Fill Operations.

(a) No person shall conduct any clean construction or demolition debris fill operation in violation of this Act or any regulations or standards adopted by the Board.

7. Section 22.51(b)(3)(i) and (ii) of the Act, 415 ILCS 5/22.51(b)(3)(i) and (ii) (2010), provides as follows:

On and after July 1, 2008, no person shall use clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation

(i) without a permit granted by the Agency ... or in violation of any conditions imposed by such permit or

(ii) in violation of any regulations or standards adopted by the Board under this Act.

8. Section 1100.201(a) of the Illinois Pollution Control Board (“Board”) CCDD Regulations, 35 Ill. Adm. Code 1100.201(a), titled, Prohibitions, provides, in pertinent part, as follows:

a. No person shall conduct any CCDD fill operation in violation of the Act or any regulations or standards adopted by the Board. [415 ILCS 5/22.51(a)].

9. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides as follows:

“Person” is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

10. SSG, a corporation, and SJLD, a limited liability company, are both persons as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

11. Section 1100.103 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.103, titled, Definitions, provides as follows:

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part will be the same as that applied to the same words or terms in the Environmental Protection Act [415 ILCS 5]:

“Facility” means the areas of a site and all equipment and fixtures on a site used for a CCDD fill operation. A facility consists of an entire CCDD fill operation. All structures used in connection with or to facilitate the CCDD fill operation will be considered a part of the facility.

* * *

“Operator” means a person responsible for the operation and maintenance of a CCDD fill operation.

“Owner” means a person who has any direct or indirect interest in a CCDD fill operation or in land on which a person operates and maintains a CCDD fill operation. A “direct or indirect interest” does not include the ownership of publicly traded stock. The

“owner” is the “operator” if there is no other person who is operating and maintaining a CCDD fill operation.

“Professional engineer” means a person who has registered and obtained a seal pursuant to the Professional Practice Act of 1989 [225 ILCS 325].

* * *

12. The 4201 Road Site where CCDD fill operation is being conducted is a Facility as that term is defined in Section 1100.103 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.103.

13. SJLD is an owner, and SSG is the operator, of the 4201 Road Site, as those terms are defined in Section 1100.103 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.103.

14. Section 1100.205(a)(b)(c) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.205(a)(b)(c), titled, Load Checking, provides in pertinent part, as follows:

The owner or operator must institute and conduct a load checking program designed to detect attempts to dispose of waste at the facility. At a minimum, the load checking program must consist of the following components:

a) Routine Inspections

- 1) An inspector designated by the facility must inspect every load before its acceptance at the facility utilizing an elevated structure, a designated ground level inspection area, or another acceptable method as specified in the Agency permit. In addition to a visual inspection, the inspector must use an instrument with a photo ionization detector utilizing a lamp of 10.6 eV or greater or an instrument with a flame ionization detector, or other monitoring devices approved by the Agency, to inspect each load. All instruments shall be interpreted based on the manufacturer's margin of error. Any reading in excess of background levels using any of these instruments must result in the rejection of the inspected load. In addition, any reading in excess of background levels on any monitoring device used by the Agency during an Agency inspection must result in the rejection of the inspected load.

- 2) Cameras or other devices may be used to record the visible contents of shipments. Where such devices are employed, their use should be designated on a sign posted near the entrance to the facility.

b) Random Inspections

- 1) In addition to the inspections required under subsection (a) of this Section, an inspector designated by the facility must conduct a discharge inspection of at least one randomly selected load delivered to the facility each day. The driver of the randomly selected load must be directed to discharge the load at a separate, designated location within the facility. The inspector must conduct an inspection of the discharged material that includes, but is not limited to, additional visual inspection and additional instrument testing using the instruments required under subsection (a)(1) of this Section. All instruments shall be interpreted based on the manufacturer's margin of error. Any reading in excess of background levels using any of these instruments must result in the rejection of the inspected load. In addition, any reading in excess of background levels on any monitoring device used by the Agency during an Agency inspection must result in the rejection of the inspected load.
- 2) Cameras or other devices may be used to record the visible contents of shipments. Where such devices are employed, their use should be designated on a sign posted near the entrance to the facility.

c) Documentation of Inspection Results

The documentation for each inspection must include, at a minimum, the following:

- 1) The date and time of the inspection, the name of the hauling firm, the vehicle identification number or license plate number, and the source of the CCDD;
- 2) The results of the routine inspection required under subsection (a) of this Section, including, but not limited to, the monitoring instruments used, whether the load was accepted or rejected, and for rejected loads the reason for the rejection;

- 3) The results of any random inspection required under subsection (b) of this Section, including, but not limited to, the monitoring instruments used, whether the load was accepted or rejected, and for rejected loads the reason for the rejection; and
- 4) The name of the inspector

* * *

15. Operating Condition I.1 of Permit No. CCDD2007-040-DE/OP provides as follows:

I. Operating Conditions

1. The operator must implement the load checking program proposed in the application for Permit No. CCDD2007-040-DE/OP (Log No. CCDD2007-040). If materials other than CCDD are discovered the load checker must prepare a report describing the results of each inspection. Documentation of the records for the facility must be kept for a minimum of three years at the facility or in some alternative location specified in the Illinois EPA permit. The documentation must be available for inspection and copying by the Illinois EPA upon request during normal business hours. Also, before the end of the operating day the operator must, by facsimile to 217-524-1991, or another method approved by the Illinois EPA, notify the Manager of the BOL Field Operations Section and provide the information described in condition I.2.c.

16. On September 15, 2010, and June 1, 2011, the Illinois EPA conducted inspections of the 4201 Road Site to determine regulatory status and compliance with the Act, Board regulations and Respondent's permit.

17. During the September 15, 2010, and June 1, 2011, inspections, the Illinois EPA observed that Respondents did not implement and document a load checking program at the 4201 Road Site.

18. By failing to implement and document a load checking program, Respondents violated Section 22.51(a) and 22.51(b)(3)(i) and (ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(i) and (ii) (2010), and 35 Ill. Adm. Code 1100.201(a), 1100.205(a)(b)(c), and permit condition I.1 of Permit No. CCDD2007-040-DE/OP.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondents, SHERIDAN-JOLIET LAND DEVELOPMENT, LLC, and SHERIDAN SAND & GRAVEL, CO., on this Count I:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;

2. Finding that the Respondents have violated Section 22.51(a) and 22.51(b)(3)(i) and (ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(i) and (ii) (2010), and 35 Ill. Adm. Code 1100.201(a) and 1100.205(a)(b)(c) and permit condition I.1 of Permit No. CCDD2007-040-DE/OP;

3. Ordering the Respondents to cease and desist from any further violations of Section 22.51(a) and 22.51(b)(3)(i) and (ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(i) and (ii) (2010), and 35 Ill. Adm. Code 1100.201(a), 1100.205(a)(b)(c), and permit condition I.1 of Permit No. CCDD2007-040-DE/OP;

4. Ordering Respondents to operate the CCDD facility in compliance with Section 22.51(a) and 22.51(b)(3)(i) and (ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(i) and (ii) (2010), and 35 Ill. Adm. Code 1100.201(a), 1100.205(a)(b)(c), and permit condition I.1 of Permit No. CCDD2007-040-DE/OP;

5. Assessing against Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, Board CCDD Regulations and permit condition, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010);

6. Ordering Respondents, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT II

FAILURE TO PROPERLY DOCUMENT SITE OF ORIGIN ADDRESS

1-13. Complainant realleges and incorporates by reference herein, paragraphs 1 through 6 and paragraphs 8 through 13 and 16, of Count I as paragraphs 1 through 13 of this Count II.

14. Section 22.51(f)(2)(A)(i) of the Act, 415 ILCS 5/22.51(f)(2)(A)(i)(2010), provides as follows:

- (f)(2) Owners and operators of clean construction or demolition debris fill operations must ...
 - (A) Document the following for each load of clean construction or demolition debris or uncontaminated soil received.
 - (i) the name of the hauler, the address of the site of origin, and the owner and the operator of the site of origin ...

15. On September 15, 2010, the Illinois EPA inspected the 4201 Road Site. On that day the 4201 Road Site had accepted ten (10) loads of soil.

16. The Illinois EPA observed that the paperwork for the loads of soil accepted at the 4201 Road Site on September 15, 2010, did not document the name of the hauler, the address of

the site of origin or the name of the owner and operator of the site of origin from which the uncontaminated soil was removed.

17. By failing to identify the site of origin and address from which the uncontaminated soil was removed and by failing to identify the name of the owner or operator of the site of origin of the uncontaminated soil, Respondents violated Section 22.51(a) and 22.51(f)(2)(A)(i) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(A)(i) (2010), and 35 Ill. Adm. Code 1100.201(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondents, SHERIDAN-JOLIET LAND DEVELOPMENT, LLC, and SHERIDAN SAND & GRAVEL CO., on this Count II:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;
2. Finding that the Respondents have violated Section 22.51(a) and 22.51(f)(2)(A)(i) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(A)(i) (2010), and 35 Ill. Adm. Code 1100.201(a);
3. Ordering the Respondents to cease and desist from any further violations of Section 22.51(a) and 22.51(f)(2)(A)(i) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(A)(i)(2010), and 35 Ill. Adm. Code 1100.201(a);
4. Ordering the Respondents to operate the CCDD facility in compliance with Section 22.51(a) and 22.51(f)(2)(A)(i) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(A)(i)(2010), and 35 Ill. Adm. Code 1100.201(a);

5. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board CCDD Regulations and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010);

6. Ordering Respondents, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT III

FAILURE TO OBTAIN SOIL CERTIFICATION

1-13. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of Count II as paragraphs 1 through 13 of this Count III.

14. Section 22.51(f)(2)(B) of the Act, 415 ILCS 5/22.51(f)(2)(B) (2010), provides as follows:

(f)(2) Until the effective date of the Board rules adopted under subdivision (f)(1) of this Section, and in addition to any other requirements, owners and operators of clean construction or demolition debris fill operations must do all of the following in subdivisions (f)(2)(A) through (f)(2)(D) of this Section for all clean construction or demolition debris and uncontaminated soil accepted for use as fill material. The requirements in subdivisions (f)(2)(A) through (f)(2)(D) of this Section shall not limit any rules adopted by the Board.

(B) For all soil, obtain either (i) a certification from the owner or operator of the site from which the soil was removed that the site has never been used for commercial or industrial purposes and is presumed to be uncontaminated soil or (ii) a certification from a licensed Professional Engineer or licensed Professional Geologist that the soil is uncontaminated soil. Certifications required under this

subdivision (f)(2)(B) must be on forms and in a format prescribed by the Agency.

15. As of the date of filing of this Complaint, the Board has not adopted rules under Section 22.51(f) (1) of the Act, 415 ILCS 5/22.51(f)(1)(2010).

16. On September 15, 2010, the 4201 Road Site had accepted ten (10) loads of soil.

17. The Illinois EPA observed that for soil accepted at the 4201 Road Site on September 15, 2010, the Respondents did not provide any certification from the owner or operator of the site of origin from which the soil was removed that the site had never been used for commercial or industrial purposes and is presumed to be uncontaminated soil or a certification from a licensed professional engineer that the soil is uncontaminated.

18. By failing to obtain a soil certification from the owner or operator of the site of origin or from a licensed professional engineer that the soil is uncontaminated, Respondents violated Section 22.51(a) and 22.51(f)(2)(B) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(B) (2010), and 35 Ill. Adm. Code 1100.201(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondents, SHERIDAN-JOLIET LAND DEVELOPMENT, LLC, and SHERIDAN SAND & GRAVEL CO., on this Count III:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;

2. Finding that the Respondents have violated Section 22.51(a) and 22.51(f)(2)(B) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(B) (2010), and 35 Ill. Adm. Code 1100.201(a);

3. Ordering Respondents to cease and desist from any further violations of Section 22.51(a) and 22.51(f)(2)(B) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(B) (2010), and 35 Ill. Adm. Code 1100.201(a);

4. Ordering the Respondents to operate the CCDD facility in compliance with Section 22.51(a) and 22.51(f)(2)(B) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(B) (2010), and 35 Ill. Adm. Code 1100.201(a);

5. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board CCDD Regulations and an additional Ten Thousand Dollars (\$10,000.00) per day for each day of violation pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010);

6. Ordering Respondents, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT IV

FAILURE TO CONFIRM THAT THE SOIL WAS NOT REMOVED FROM A SITE AS PART OF A CLEANUP

1-14. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 and paragraph 15 of Count III as paragraphs 1 through 14 of this Count IV.

15. Section 22.51(f)(2)(C) of the Act, 415 ILCS 5/22.51(f)(2)(C) (2010), provides as follows:

(f)(2) Until the effective date of the Board rules adopted under subdivision (f)(1) of this Section, and in addition to any other requirements, owners and operators of clean construction or demolition debris fill operations must do all of the following in subdivisions (f)(2)(A) through (f)(2)(D) of this Section for all

clean construction or demolition debris and uncontaminated soil accepted for use as fill material. The requirements in subdivisions (f)(2)(A) through (f)(2)(D) of this Section shall not limit any rules adopted by the Board.

(C) Confirm that the clean construction or demolition debris or uncontaminated soil was not removed from a site as part of a cleanup or removal of contaminants, including, but not limited to, activities conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; as part of a Closure or Corrective Action under the Resource Conservation and Recovery Act, as amended; or under an Agency remediation program, such as the Leaking Underground Storage Tank Program or Site Remediation Program, but excluding sites subject to Section 58.16 of this Act where there is no presence or likely presence of a release or a substantial threat of a release of a regulated substance at, on, or from the real property.

16. On September 15, 2010, ten (10) loads of soil was accepted at the 4201 Road Site.

17. The Illinois EPA observed that for the soil accepted on September 15, 2010 at the 4201 Road Site, Respondents did not possess any documentation to confirm that the soil accepted at the 4201 Road Site was not removed from a site as part of a cleanup or removal of contaminants.

18. By failing to maintain any documentation confirming that the soil accepted at the 4201 Road Site was not removed from a site as part of a cleanup or removal of contaminants, Respondents violated Section 22.51(a) and 22.51(f)(2)(C) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(C) (2010), and 35 Ill. Adm. Code 1100.201(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondents, SHERIDAN-JOLIET LAND DEVELOPMENT, LLC, and SHERIDAN SAND & GRAVEL CO., on this Count IV:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;

2. Finding that the Respondents have violated Section 22.51(a) and 22.51(f)(2)(C) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(C) (2010), and 35 Ill. Adm. Code 1100.201(a);

3. Ordering the Respondents to cease and desist from any further violations of Section 22.51(a) and 22.51(f)(2)(C) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(C) (2010), and 35 Ill. Adm. Code 1100.201(a);

4. Ordering the Respondents to operate the CCDD facility in compliance with Section 22.51(a) and 22.51(f)(2)(C) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(C) (2010), and 35 Ill. Adm. Code 1100.201(a);

5. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board CCDD Regulations and an additional Ten Thousand Dollars (\$10,000.00) per day for each day of violation pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010);

6. Ordering Respondents, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultant fees; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT V

FAILURE TO DOCUMENT RANDOM DAILY DISCHARGE INSPECTION

1-14. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of Count IV and paragraph 7 of Count I as paragraphs 1 through 14 of this Count V.

15. Section 1100.205(b)(1) and (c)(3) of the Board CCDD Regulations, 35 Ill. Adm.

Code 1100.205(b)(1) and (c)(3), provides in pertinent part as follows:

b) Random Inspections

- 1) In addition to the inspections required under subsection (a) of this Section, an inspector designated by the facility must conduct a discharge inspection of at least one randomly selected load delivered to the facility each day ...

* * *

c) Documentation of Inspection Results

The documentation for each inspection must include, at a minimum, the following:

* * *

- 3) The results of any random inspection required under subsection (b) of this Section, including, but not limited to, the monitoring instruments used, whether the load was accepted or rejected, and for rejected loads the reason for the rejection; [...]

* * *

16. During the September 15, 2010 inspection, the Illinois EPA observed that Respondents did not produce any documentation to show that a random daily discharge inspection took place on September 2, 2010.

17. During the September 15, 2010, inspection, the Respondents did not produce any documentation to show the results of a random daily discharge inspection for September 2, 2010.

18. By failing to conduct a random daily discharge inspection and also by failing to document the results of the random daily discharge inspection for September 2, 2010, Respondents violated Sections 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a) and 1100.205(b)(1) and (c)(3).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests the Board enter an order in favor of Complainant and against the Respondents, SHERIDAN-JOLIET LAND DEVELOPMENT, LLC, and SHERIDAN SAND & GRAVEL CO. on this Count V:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;
2. Finding that the Respondents have violated Sections 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a) and 1100.205(b)(1) and (c)(3);
3. Ordering the Respondents to cease and desist from any further violations of Section 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a) and 1100.205(b)(1) and (c)(3);
4. Ordering the Respondents to operate the CCDD facility in compliance with Section 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a) and 1100.205(b)(1) and (c)(3);
5. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board CCDD Regulations and an additional Ten Thousand Dollars (\$10,000.00) per day for each day of violation pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010);
6. Ordering Respondents, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultants fees; and
7. Granting such other relief as the Board deems appropriate and just.

COUNT VI

FAILURE TO CALIBRATE THE PHOTOIONIZATION DEVICE

1-14. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count V as paragraphs 1 through 14 of this Count VI.

15. Section 1100.205(h) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.205(h), provides as follows:

* * *

- h) All field measurement activities relative to equipment and instrument operation, calibration and maintenance and data handling shall be conducted in accordance with the following:
 - 1) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846), Vol. One, Ch. One (Quality Control), incorporated by reference at Section 1100.104 of this Part;
 - 2) The equipment or instrument manufacturer's or vendor's published standard operating procedures; or
 - 3) Other operating procedures specified in the Agency permit.

16. During the September 15, 2010 inspection, the Illinois EPA observed that Respondents did not maintain and calibrate the photoionization device, an instrument used to detect contaminant levels of the fill material accepted at the Site.

17. By failing to maintain and calibrate the photoionization device, Respondents violated Section 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.205(h) and 1100.201(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondents,

SHERIDAN-JOLIET LAND DEVELOPMENT, LLC, and SHERIDAN SAND & GRAVEL
CO. on this Count VI:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;

2. Finding that the Respondents have violated Section 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.205(h) and 1100.201(a);

3. Ordering the Respondents to cease and desist from any further violations of Section 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.205(h) and 1100.201(a);

4. Ordering the Respondents to operate the CCDD facility in compliance with Section 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.205(h) and 1100.201(a);

5. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board CCDD Regulations, plus an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010);

6. Ordering Respondents, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultants fees; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT VII

FAILURE TO SUBMIT MONTHLY FILL RECORDS

1-14. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count VI as paragraphs 1 through 14 of this Count VII.

15. Section 1150.210(b) and (c) of the Board CCDD Regulations, 35 Ill. Adm. Code 1150.210(b) and (c), titled, Monthly Fill Record, provides as follows:

* * *

- (b) On or before April 15, July 15, October 15 and January 15, the owner or operator of the CCDD fill operation shall submit to the Agency the Monthly Fill Records for the preceding three calendar months. The Monthly Fill Records must be submitted to the address in Section 1150.305.
- (c) Upon issuance of a valid CCDD fill operation permit pursuant to 35 Ill. Adm. Code 1100, and until termination of the permit, the owner or operator of the CCDD fill operation shall submit Monthly Fill Records to the Agency in accordance with this Section, regardless of the amount of CCDD and uncontaminated soil accepted for use as fill material by the CCDD fill operation.

16. On April 5, 2011, April 22, 2011, and June 1, 2011, the Illinois EPA conducted a document review and physical inspection of the 4201 Road Site.

17. During the April 5, 2011, April 22, 2011 and June 1, 2011 inspections, the Illinois EPA observed that the Respondents did not submit monthly fill records for the months of July, August and September 2010, by October 15, 2010, for the months of October, November and December 2010, by January 15, 2011, and for the months of January, February and March 2011, by April 15, 2011.

18. By failing to submit monthly fill records to the Illinois EPA by October 15, 2010, January 15, 2011, and April 15, 2011, Respondents violated Section 22.51(a) and 22.51(b)(3)(ii)

of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a), and 1150.210(b) and (c).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondents, SHERIDAN-JOLIET LAND DEVELOPMENT, LLC, and SHERIDAN SAND & GRAVEL CO. on this Count VII:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;
2. Finding that the Respondents have violated Section 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a), and 1150.210(b) and (c);
3. Ordering the Respondents from any further violations of Section 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a), and 1150.210(b) and (c);
4. Ordering the Respondents to operate the CCDD facility in compliance with Section 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a), and 1150.210(b) and (c);
5. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board CCDD Regulations, plus an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010);

6. Ordering Respondents, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultants fees; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT VIII

FAILURE TO SUBMIT QUARTERLY FILL SUMMARIES

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 and paragraph 16 of Count VII as paragraphs 1 through 15 of this Count VIII.

16. Section 1150.215(a), (b) and (c) of the Board CCDD Regulations, 35 Ill. Adm. Code 1150.215(a), (b) and (c), titled, Quarterly Fill Summary, provides as follows:

- (a) The Agency shall assess and collect a fee from the owner or operator of each clean construction or demolition debris fill operation that is permitted or required to be permitted by the Agency. [...]
- (b) The Agency shall establish rules relating to the collection of the fees authorized by subsection (a) of this Section. These rules shall include, but are not limited to, the following:
- (c) Upon issuance of a valid CCDD fill operation permit pursuant to 35 Ill. Adm. Code 1100, and until termination of the permit, the owner or operator of the CCDD fill operation shall submit a Quarterly Fill Summary to the Agency in accordance with this Section, regardless of the amount of CCDD and uncontaminated soil accepted for use as fill material by the CCDD fill operation.

17. During the April 5, 2011, April 22, 2011, and June 1, 2011, inspections, the Illinois EPA observed that the Respondents did not submit to the Illinois EPA Quarterly Fill Summaries by the deadlines of October 15, 2010, January 15, 2011, or April 15, 2011.

18. By failing to submit Quarterly Fill Summaries to the Illinois EPA by October 15, 2010, January 15, 2011, and April 15, 2011, Respondents violated Section 22.51(a) and

22.51(b)(3)(ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a), and 1150.215(b) and (c).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondents, SHERIDAN-JOLIET LAND DEVELOPMENT, LLC, and SHERIDAN SAND & GRAVEL CO. on this Count VIII:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;
2. Finding that the Respondents have violated Section 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a), and 1150.215(b) and (c);
3. Ordering the Respondents from any further violations of Section 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a), and 1150.215(b) and (c);
4. Ordering the Respondents to operate the CCDD facility in compliance with Section 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a), and 1150.215(b) and (c);
5. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board CCDD Regulations and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010);

6. Ordering Respondents, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultants fees; and

7. Granting such other relief as the Board deems appropriate and just.

COUNT IX

FAILURE TO SUBMIT QUARTERLY FEES

1-15. Complainant realleges and incorporates by reference herein paragraphs 1 through 15 of Count VIII as paragraphs 1 through 15 of this Count IX.

16. Section 22.51b of the Act, 415 ILCS 5/22.51b (2010), provides as follows:

Fees for permitted facilities accepting clean construction or demolition debris or uncontaminated soil.

(c) The Agency shall assess and collect a fee from the owner or operator of each clean construction or demolition debris fill operation that is permitted or required to be permitted by the Agency. The fees assessed and collected under this subsection shall be

(b) The Agency shall establish rules relating to the collection of the fees authorized by subsection (a) of this Section. These rules shall include, but are not limited to, the following:

* * *

(3) The time and manner of payment of fees to the Agency, which payments shall not be more often than quarterly.

17. Section 21(k) of the Act, 415 ILCS 5/21(k) (2010), provides as follows:

No person shall:

(k) Fail or refuse to pay any fee imposed under this Act.

18. Section 1150.300(a) of the Board CCDD Regulations, 35 Ill. Adm. Code 1150.300(a), titled, Quarterly Submission of Payment, provides as follows:

- a) Payment of the fee due under Section 22.51b of the Act must be made on a quarterly basis with the submission of the Quarterly Fill Summary. The payment must be received by the Agency on or before April 15, July 15, October 15 and January 15 of each year and must cover the preceding three calendar months.

19. During the April 5, 2011, April 22, 2011, and June 1, 2011, inspections, the Illinois EPA observed that fees required for permitted facilities under Section 22.51b of the Act were not made on or before October 15, 2010, January 15, 2011, and April 15, 2011.

20. By failing to submit quarterly fee payments as required by 35 Ill. Adm. Code 1150.300(a), Respondents violated Sections 21(k), 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/21(k), 22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a) and 1150.300(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondents, SHERIDAN-JOLIET LAND DEVELOPMENT, LLC, and SHERIDAN SAND & GRAVEL CO. on this Count IX:

1. Authorizing a hearing in this matter at which time Respondents will be required to answer the allegations herein;
2. Finding that the Respondents have violated Sections 21(k), 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/21(k), 22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a) and 1150.300(a);

3. Ordering the Respondents to cease and desist from any further violations of Sections 21(k), 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/21(k), 22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a) and 1150.300(a);

4. Ordering the Respondents to operate the CCDD facility in compliance with Sections 21(k), 22.51(a) and 22.51(b)(3)(ii) of the Act, 415 ILCS 5/21(k), 22.51(a) and 22.51(b)(3)(ii) (2010), and 35 Ill. Adm. Code 1100.201(a) and 1150.300(a);


5. Assessing against the Respondents a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and Board CCDD Regulations, and an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2010);

6. Ordering Respondents, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), to pay all costs expended by the State in its pursuit of this action, including attorney, expert witness, and consultants fees; and

7. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
LISA MADIGAN, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

By: 
ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel:

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(312) 814-3816

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CERTIFICATE OF SERVICE

I, ZEMEHERET BEREKET-AB, an Assistant Attorney General, do certify that I caused to be served on this 31st day of October 2012, the foregoing Notice of Filing, and a Complaint, upon Mr. Branko Vardijan, via Certified mail by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois.



ZEMEHERET BEREKET-AB