

ILLINOIS POLLUTION CONTROL BOARD
May 15, 2014

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 13-19
) PCB 13-20
SHERIDAN-JOLIET LAND) (Enforcement - Land)
DEVELOPMENT, LLC, an Illinois limited) (Consolidated)
liability company and SHERIDAN SAND &)
GRAVEL CO., an Illinois corporation,)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by J. D. O’Leary):

On October 31, 2012, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a nine-count complaint against Sheridan-Joliet Land Development, LLC and Sheridan Sand & Gravel Co. (respondents). The complaint concerns respondents’ clean construction or demolition debris facility located at 2679 N. 4201 Road in Sheridan, LaSalle County.

Also on October 31, 2012, the People filed a four-count complaint against respondents. The complaint concerns respondents’ clean construction or demolition debris facility located at 105 S. Wiensland Road in Sheridan, LaSalle County. On August 8, 2013, the Board consolidated PCB 13-19 and PCB 13-20. 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 (2012)), 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 (2012); 35 Ill. Adm. Code 103. In PCB 13-19, the People allege that respondents violated Sections 21(k), 22.51(a), 22.51 (b)(3)(i) and (ii), 22.51(f)(2)(A)(i), 22.51(f)(2)(B), 22.51(f)(2)(C) of the Act (415 ILCS 5/21(k), 22.51(a), (b)(3)(i) and(ii), (f)(2)(A)(i), (f)(2)(B), (f)(2)(C) (2012)); 35 Ill. Adm. Code 1100.201(a), 1100.205(a), (b), and (c), 1100.205(b)(1) and (c)(3), 1100.205(h), 1150.210(b),(c), 1150.215(b),(c), 1150.300(a); and permit condition I.1 of Permit No. CCDD2007-040-DE/OP. The People allege that respondents violated these provisions by failing to:

- 1) implement and document a load checking program;
- 2) identify the site of origin and address from which the uncontaminated soil was removed;
- 3) identify the name of the owner or operator of the site of origin of the uncontaminated soil;

- 4) 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;
- 5) maintain any documentation confirming that the soil accepted at the CCDD facility was not removed from a site as part of a cleanup or removal of contaminants;
- 6) conduct a random daily discharge inspection;
- 7) document the results of the random daily discharge inspection for September 2, 2010;
- 8) maintain and calibrate the photoionization device;
- 9) submit monthly fill records to the Illinois Environmental Protection Agency (Agency) by October 15, 2010, January 15, 2011, and April 15, 2011; and
- 10) submit Quarterly Fill Summaries to the Agency by October 15, 2010, January 15, 2011, and April 15, 2011, and by failing to submit quarterly fee payments.

In PCB 13-20, the People allege that respondents violated Sections 21(k), 22.51(a), 22.51(b)(3)(i) and (ii), 22.51(f)(2)(B)(i) and (ii) and 22.51(f)(3) of the Act (415 ILCS 5/21(k), 22.51(a), 22.51(b)(3)(i) and (ii), 22.51(f)(2)(B)(i) and (ii) and 22.51(f)(3) (2012)); 35 Ill. Adm. Code 1100.201(a), 1100.205(i), 1100.205(a), (b), and (c), 1150.110, 1150.200, 1150.205, 1150.210, 1150.215 and 1150.300(a); and permit condition 1.1 of Permit No. CCDD2007-042-DE/OP. The complaint alleges that respondents violated these sections by failing to:

- 1) implement and document a load checking program;
- 2) obtain a soil certification from the owner or operator of the site of origin or from a licensed professional engineer that soil observed in a pile at the Wiensland site was uncontaminated;
- 3) adhere to various record keeping requirements at the Wiensland site; and
- 4) submit quarterly fee payments as required under 35 Ill. Adm. Code 1150.300(a).

On March 28, 2014, the People and respondents 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) (2012)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2012)), 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 *LaSalle News Tribune* on April 10, 2014. 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) (2012); 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 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) (2012)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Respondents do not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2012)), which may mitigate or aggravate the civil penalty

amount. Respondents agree to pay a civil penalty of \$17,500.00. The People and respondents 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. Respondents must pay a civil penalty of \$17,500.00 no later than June 16, 2014, which is the first business day following 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 Agency for deposit into the Environmental Protection Trust Fund. The case name and case number must appear on the face of the certified check or money order.
3. Respondents 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

Respondents must send a copy of the certified check or money order and any transmittal letter to:

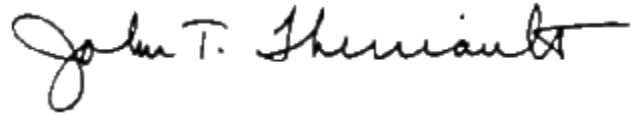
Kathryn A. Pamerter
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2012)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2012)).
5. Respondents must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

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) (2012); *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 T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 15, 2014, by a vote of 4-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Clerk
Illinois Pollution Control Board