

- Count IV Failure to Provide Written Notice of Demolition, in violation of Sections 9.1(d) and 9.13(b) of the Act (415 ILCS 5/9.1(d) and 9.13(b) (2012)) and 40 CFR §61.145(b);
- Count V Open Dumping, in violation of Section 21(a) of the Act (415 ILCS 5/21(a) (2012));
- Count VI Waste Disposal at a Site That Does Not Meet the Requirements of the Act, in violation of Section 21(e) of the Act (415 ILCS 5/21(e) (2012));
- Count VII Open Dumping of Waste Resulting in Litter, in violation of Section 21(p)(1) of the Act (415 ILCS 5/21(p)(1) (2012));
- Count VIII Open Dumping of Waste Resulting in Open Burning, in violation of Section 21(p)(3) of the Act (415 ILCS 5/21(p)(3) (2012)); and
- Count IX Open Dumping Resulting in the Deposition of General Construction or Demolition Debris, in violation of Section 21(p)(7)(i) of the Act (415 ILCS 5/21(p)(7)(i) (2012)).

On July 11, 2014, the People and Ernest Bennett 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 *Shelbyville Daily Union* on August 1, 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 Ernest Bennett'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) (2012)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Ernest Bennett admits 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. Ernest Bennett agrees to pay a civil penalty of \$2,000. The People and Ernest Bennett 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. Ernest Bennett must pay a civil penalty of \$2,000 no later than October 6, 2014 which is the first business day following the 30th day after the date of this order. Ernest Bennett 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. Ernest Bennett 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

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

Ellen O'Laughlin
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. The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter 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 September 4, 2014 by a vote of 4-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

John T. Therriault, Clerk
Illinois Pollution Control Board