

ILLINOIS POLLUTION CONTROL BOARD
October 27, 2016

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 17-6
) (Enforcement - Land)
LANGMAN CONSTRUCTION, INC., an)
Iowa corporation, and RICHARD)
LANGMAN,)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by G.M. Keenan):

On September 7, 2016, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a seven-count complaint against Langman Construction, Inc., and Richard Langman (collectively, respondents). The complaint concerns respondents' uncontaminated soil and clean construction and demolition debris (CCDD) fill business located at 220 34th Avenue in Rock Island, Rock Island County. With the complaint, the parties filed a stipulation and proposed settlement (Stip.) along with a request for relief from the hearing requirement. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2014)), the Attorney General may bring actions before the Board on behalf of the People to enforce Illinois' environmental requirements. 415 ILCS 5/31 (2014); 35 Ill. Adm. Code 103. In this case, the People allege that respondents committed the following violations:

- **Count I.** Respondents allegedly mishandled soils and CCDD at the site in violation of Sections 22.51(a), (b)(3), (g)(1), and (g)(2) of the Act; Sections 1100.201(b), (d), (e), and (g); 1100.205(a)(1)(A), (a)(1)(B), (b)(1)(A), (b)(2)(A), (b)(3), (b)(7); and 1100.207(a) of the Board's regulations; and Condition 1.1 of Permit No. CCDD2008-010-DE/OP issued to respondents by the Illinois Environmental Protection Agency (IEPA) for the site. 415 ILCS 5/22.51(a), (b)(3), (g)(1), (g)(2) (2014); 35 Ill. Adm. Code 1100.201(b), (d), (e), and (g); 1100.205(a)(1)(A), (a)(1)(B), (b)(1)(A), (b)(2)(A), (b)(3), and (b)(7); and 1100.207(a).
- **Count II.** Respondents allegedly failed to properly certify, document, and maintain records about the soils handled at the site in violation of Sections 22.51(a), (b)(3), (f)(2)(b), (f)(2)(D), and (f)(3) of the Act; Sections 1100.203, 1100.210, 1100.211, 1150.110, 1150.200(a), (b), (c), (d), and(e), 1150.205(a), 1150.210(a) and (b), 1150.215(a) and (b), and 1150.300(a) of the Board's regulations; and Condition IV.1 of Permit No. CCDD2008-010-DE/OP issued to respondents by IEPA for the site. 415 ILCS 5/22.51(a), (b)(3), (f)(2)(b), (f)(2)(D), (f)(3) (2014); 35 Ill. Adm. Code 1100.203, 1100.210, 1100.211, 1150.110, 1150.200(a), 1150.200(b), 1150.200(c), 1150.200(d),

1150.200(e), 1150.205(a), 1150.210(a), 1150.210(b), 1150.215(a), 1150.215(b), 1150.300(a).

- Count III. Respondents allegedly caused, threatened, or allowed water pollution as a result of the improper handling and certification of soils on the site in violation of Sections 12(a) and 12(d) of the Act. 415 ILCS 5/12(a), (d) (2014).
- Count IV. Respondents allegedly caused or allowed open dumping at the site in violation of Section 21(a) of the Act. 415 ILCS 5/21(a) (2014).
- Count V. Respondents allegedly caused or allowed open dumping at the site that resulted in litter in violation of Section 21(p)(1) of the Act. 415 ILCS 5/21(p)(1) (2014).
- Count VI. Respondents allegedly caused or allowed open dumping at the site that resulted in the deposition of general construction or demolition debris in violation of Section 21(p)(7) of the Act. 415 ILCS 5/21(p)(7) (2014).
- Count VII. Respondents allegedly operated a waste-disposal operation without a permit and in violation of the Board's regulations in violation of Sections 21(d)(1), (d)(2), and (e) of the Act and Section 812.101(a) of the Board's regulations. 415 ILCS 5/21(d)(1), (d)(2), (e); 35 Ill. Adm. Code 812.101(a).

On September 22, 2016, the Board directed its clerk to publish notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Rock Island Argus* on September 24, 2016. The Board did not receive a request for hearing. The Board grants the parties' request for relief from the hearing requirement. 415 ILCS 5/31(c)(2) (2014); 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. 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, which bears on the reasonableness of the circumstances surrounding the alleged violations. 415 ILCS 5/33(c) (2014). Respondents admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act, which may mitigate or aggravate the civil penalty amount. 415 ILCS 5/42(h) (2014). Respondents agree to pay a civil penalty of \$13,100.00. 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. Langman Construction, Inc. and Richard Langman must pay a civil penalty of \$13,100.00 no later than November 28, 2016, 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 shall 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:

Scott M. Marsik
 Assistant Attorney General
 Environmental Bureau South
 Illinois Attorney General's Office
 500 South 2nd Street
 Springfield, Illinois 62701

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2014)). 415 ILCS 5/42(g) (2014).
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) (2014); *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 opinion and order on October 27, 2016, by a vote of 5-0.



John T. Therriault, Clerk
 Illinois Pollution Control Board