

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 13-19
	)	PCB No. 13-20
SHERIDAN-JOLIET LAND	)	(Enforcement-Land)
DEVELOPMENT, LLC, an Illinois	)	
limited liability company, and	)	(Consolidated)
SHERIDAN SAND & GRAVEL CO.,	)	
an Illinois corporation,	)	
	)	
Respondents.	)	

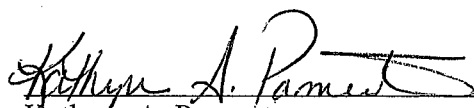
**NOTICE OF ELECTRONIC FILING**

To: Kenneth Anspach, Esq.  
 Anspach Law Office  
 111 West Washington Street  
 Suite 1625  
 Chicago, Illinois 60602

Bradley P. Halloran  
 Hearing Officer  
 Illinois Pollution Control Board  
 James R. Thompson Center, Suite 11-500  
 100 W. Randolph Street  
 Chicago, Illinois 60601

PLEASE TAKE NOTICE that on the 28th day of March, 2014, the Complainant, PEOPLE OF THE STATE OF ILLINOIS, filed the attached Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement, a true and correct copy of which is attached hereto and is hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS,  
*ex rel.* LISA MADIGAN, Attorney General  
 of the State of Illinois

By:   
 Kathryn A. Pamerter  
 Assistant Attorney General  
 Environmental Bureau  
 69 W. Washington St., 18<sup>th</sup> Floor  
 Chicago, IL 60602  
 (312) 814-0608

DATE: March 28, 2014

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	)	
Respondents.	)	

**MOTION FOR RELIEF FROM HEARING REQUIREMENT**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/31(c)(2) (2012), moves that the Illinois Pollution Control Board (“Board”) grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2012). In support of this motion, Complainant states as follows:

1. On October 31, 2012, a nine-count Complaint (“PCB No. 13-19”) was filed 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 upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2012), against the Respondents relating to the clean construction or demolition facility located at 2679 N. 4201 Road, Sheridan, LaSalle County, Illinois (“4201 Road Site”).

2. On October 31, 2012, a four-count Complaint (“PCB No. 13-20”) was filed 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 upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2012), against the Respondents relating to the clean construction or demolition facility located at 105 S. Wiensland Road, Sheridan, LaSalle County, Illinois ("Wiensland Site").

3. The parties have reached agreement on all outstanding issues in PCB Nos. 13-19 and 13-20.

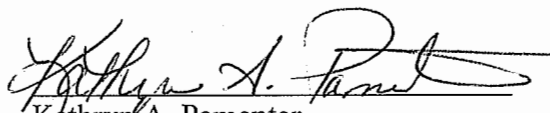
4. This agreement is presented to the Board in a Stipulation and Proposal for Settlement filed this same date.

5. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2012).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2012) and such other relief as the Board deems proper.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
*ex rel.* LISA MADIGAN  
Attorney General, State of Illinois

BY:   
Kathryn A. Pamenter  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(312) 814-0608

DATE: March 28, 2014

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limited liability company, and	)	(Consolidated)
SHERIDAN SAND & GRAVEL CO.,	)	
an Illinois corporation,	)	
	)	
Respondents.	)	

**STIPULATION AND PROPOSAL FOR SETTLEMENT**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”) and SHERIDAN-JOLIET LAND DEVELOPMENT, LLC and SHERIDAN SAND & GRAVEL CO. (“Respondents”), (collectively “Parties to the Stipulation”) have agreed to the making of this Stipulation and Proposal for Settlement (“Stipulation”) and submit it to the Illinois Pollution Control Board (“Board”) for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board’s approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/1, *et seq.* (2012), and the Board’s regulations, alleged in the Complaints except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

**I. STATEMENT OF FACTS**

**A. Parties**

1. On October 31, 2012, a nine-count Complaint ("PCB No. 13-19") was filed 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 upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2012), against the Respondents relating to the clean construction or demolition facility located at 2679 N. 4201 Road, Sheridan, LaSalle County, Illinois ("4201 Road Site").

2. On October 31, 2012, a four-count Complaint ("PCB No. 13-20" and together with PCB No. 13-19, the "Complaints") was filed 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 upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2012), against the Respondents relating to the clean construction or demolition facility located at 105 S. Wiensland Road, Sheridan, LaSalle County, Illinois ("Wiensland Site").

3. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2012).

4. At all times relevant to the Complaints, Sheridan-Joliet Land Development, LLC was and is an Illinois limited liability company in good standing with the Illinois Secretary of State that owned the 4201 Road Site and the Wiensland Site.

5. At all times relevant to the Complaints, Sheridan Sand & Gravel Co. was and is an Illinois corporation in good standing with the Illinois Secretary of State that operated the 4201 Road Site and the Wiensland Site.

**B. Allegations of Non-Compliance**

Complainant contends that the Respondents violated the following provisions of the Act and Board regulations:

**PCB No. 13-19:**

- Count I: Failure to Implement and Document a Load Checking Program in violation of Sections 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) (2010), 35 Ill. Adm. Code 1100.201(a) and 1100.205(a), (b) and (c) and condition I.1 of Permit No. CCDD2007-040-DE/OP.
- Count II: Failure to Properly Document Site of Origin Address in violation of Sections 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).
- Count III: Failure to Obtain Soil Certification in violation of Sections 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).
- Count IV: Failure to Confirm That The Soil Was Not Removed From a Site as Part of a Cleanup in violation of Sections 22.51(a) and 22.51(f)(2)(C) of the Act, 5/22.51(a) and 22.51(f)(2)(C) (2010), and 35 Ill. Adm. Code 1100.201(a).
- Count V: Failure to Document Random Daily Discharge Inspection in violation of 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).
- Count VI: Failure to Calibrate the Photoionization Device in violation of 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 1100.205(h) and 1100.201(a).
- Count VII: Failure to Submit Monthly Fill Records in violation of 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 1150.210(b) and (c).
- Count VIII: Failure to Submit Quarterly Fill Summaries in violation of 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 1150.215(b) and (c).

Count IX: Failure to Submit Quarterly Fees in violation 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).

**PCB No. 13-20**

Count I: Failure to Implement and Document a Load Checking Program in violation of Sections 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), 35 Ill. Adm. Code 1100.201(a) and 1100.205(a), (b) and (c), and condition I.1. of Permit No. CCDD2007-042-DE/OP.

Count II: Failure to Obtain Soil Certification in violation of Sections 22.51(a) and 22.51(f)(2)(B)(i) and (ii) of the Act, 415 ILCS 5/22.51(a) and 22.51(f)(2)(B)(i) and (ii) (2010), and 35 Ill. Adm. Code 1100.201(a).

Count III: Violation of Recordkeeping Requirements in violation of Sections 22.51(a), 22.51(b)(3)(ii) and 22.51(f)(3) of the Act, 415 ILCS 5/22.51(a), 22.51(b)(3)(ii) and 22.51(f)(3) (2010), and 35 Ill. Adm. Code 1100.201(a), 1100.205(i), 1150.110, 1150.200, 1150.205, 1150.210 and 1150.215.

Count IV: Failure to Submit Quarterly Fees in violation 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).

**C. Non-Admission of Violations**

The Respondents represent that they have entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondents do not affirmatively admit the allegations of violation within the Complaints and referenced herein, and this Stipulation shall not be interpreted as including such admission.

**II. APPLICABILITY**

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The

Respondents shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, members, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondents in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board regulations for all violations alleged in the Complaints in these matters, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2012).

**III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c) (2012), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. The Illinois EPA's information gathering responsibilities were hindered by the Respondents' violations, thereby threatening human health and the environment.
2. There is social and economic benefit to the facilities.



3. Operation of the facilities was and is suitable for the area in which it is located.
4. Compliance with the statutes, regulations and Facilities' permit terms is both technically practicable and economically reasonable.
5. The Respondents have subsequently complied with the Act and the Board regulations.

**IV. CONSIDERATION OF SECTION 42(h) FACTORS**

Section 42(h) of the Act, 415 ILCS 5/42(h) (2012), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;
6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency;
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform; and
8. whether the respondent has successfully completed a Compliance

Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

In response to these factors, the Parties to the Stipulation state as follows:

1. In PCB No. 13-19, the alleged violations existed from at least September 15, 2010 through June 1, 2011, and the fees for 2010 and 2011 were paid in September 2011. In PCB No. 13-20, the alleged violations existed from at least March 18, 2011 thru September 2011, and the fees for calendar year 2010 and those due in 2011 were paid in September 2011. The Illinois EPA's information gathering responsibilities were hindered by the Respondents' violations, thereby threatening human health and the environment.
2. The Respondents were diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified them of their noncompliance.
3. Any economic benefit obtained by the Respondents is accounted for in the \$17,500.00 civil penalty that the Respondents have agreed to pay in these matters.
4. Complainant has determined, based upon the specific facts of these matters, that a penalty of Seventeen Thousand Five Hundred Dollars (\$17,500.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.
5. Sheridan Sand & Gravel, Co. was a respondent in PCB No. 06-177, involving alleged used/waste tire violations.
6. Self-disclosure is not at issue in this matter.
7. The settlement of this matter does not include a supplemental environmental project.
8. A Compliance Commitment Agreement was not at issue in this matter.

V. TERMS OF SETTLEMENT

A. **Penalty Payment**

1. The Respondents shall pay a civil penalty in the sum of Seventeen Thousand Five Hundred Dollars (\$17,500.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. **Payment Procedures**

1. All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

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

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

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

C. **Future Compliance**

1. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, shall have the right of entry into and upon the 4201 Road Site and the Wiensland Site which are the subject of

this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

2. This Stipulation in no way affects the responsibilities of the Respondents to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board regulations.

3. The Respondents shall cease and desist from future violations of the Act and Board regulations that were the subject matter of the Complaints.

**D. Release from Liability**

In consideration of the Respondents' payment of the \$17,500.00 penalty, its commitment to cease and desist as contained in Section V.D.3 above, completion of all activities required hereunder, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondents from any further liability or penalties for the violations of the Act and Board regulations that were the subject matter of the Complaints. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaints filed on October 31, 2012. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondents with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondents' failure to satisfy the requirements of

this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondents.

**E. Correspondence, Reports and Other Documents**

Any and all correspondence, reports and any other documents required under this Stipulation, except for penalty payments, shall be submitted as follows:

As to the Complainant

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

Mark Gurnik  
Assistant Counsel  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

As to the Respondent

Kenneth Anspach  
Anspach Law Office  
111 West Washington Street  
Suite 1625  
Chicago, Illinois 60602

**F. Enforcement of Stipulation**

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all

available means.

**G. Execution of Stipulation**

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

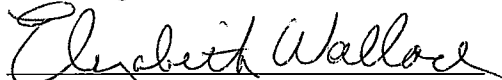
PEOPLE OF THE STATE OF ILLINOIS


ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN  
Attorney General  
State of Illinois

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

LISA BONNETT, Director  
Illinois Environmental Protection Agency

BY:   
ELIZABETH WALLACE, Chief  
Assistant Attorney General  
Environmental Bureau

BY:   
JOHN J. KIM  
Chief Legal Counsel

DATE: 3/25/14

DATE: 3/20/14

SHERIDAN-JOLIET LAND DEVELOPMENT, LLC

By: \_\_\_\_\_  
Its: \_\_\_\_\_

DATE: \_\_\_\_\_

SHERIDAN SAND & GRAVEL CO.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

DATE: \_\_\_\_\_

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

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

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

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

LISA BONNETT, Director  
Illinois Environmental Protection Agency

BY: \_\_\_\_\_  
ELIZABETH WALLACE, Chief  
Assistant Attorney General  
Environmental Bureau

BY: \_\_\_\_\_  
JOHN J. KIM  
Chief Legal Counsel

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

SHERIDAN-JOLIET LAND  
DEVELOPMENT, LLC

By: *Matthew Vadey*  
Its: President

DATE: 3/26/14

SHERIDAN SAND & GRAVEL CO.

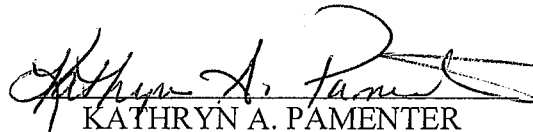
By: *Matthew Vadey*  
Its: President

DATE: 3/26/14



**CERTIFICATE OF SERVICE**

I, KATHRYN A. PAMENTER, an Assistant Attorney General, do certify that I caused to be served this 28th day of March, 2014, the attached Notice of Electronic Filing, Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement upon (a) Kenneth Anspach by placing a true and correct copy in an envelope addressed as set forth on said Notice of Filing, first class postage prepaid, and depositing same with the United States Postal Service at 100 West Randolph Street, Chicago, Illinois, at or before the hour of 5:00 p.m and (b) upon Bradley Halloran *via email*.

  
KATHRYN A. PAMENTER