

ILLINOIS POLLUTION CONTROL BOARD

December 18, 2003

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 04-6
)	(Enforcement - Air)
VALLEY RUN STONE, a division of AVERY))	
GRAVEL COMPANY, an Illinois corporation,))	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by N.J. Melas):

On July 11, 2003, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Valley Run Stone. See 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that Valley Run Stone violated Sections 9(b), 9.1(d), and 39.5(6)(b) of the Environmental Protection Act (Act) (415 ILCS 5/9(b), 9.1(d), and 39.5(6)(b) (2002)); 35 Ill. Adm. Code 201.142 and 201.143; and 40 C.F.R. 52.21(i)(1), (k), (m), and (n), which are enforceable under Section 9.1(d) of the Act. The People further allege that Valley Run Stone violated these provisions by failing to: (1) obtain a construction permit; (2) comply with preconstruction prevention of significant deterioration standards; (3) obtain an operating permit; and (4) obtain a Clean Air Act permit. The complaint concerns Valley Run Stone’s construction of a natural gas-fired power generating facility at its quarry in Lisbon, Kendall County.

On October 14, 2003, the People and Valley Run Stone 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) (2002)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)). See 35 Ill. Adm. Code 103.300(a). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the *Plano Record* on October 30, 2003. 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) (2002); 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 Valley Run Stone’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) (2002)). The People and Valley Run Stone have satisfied Section 103.302. Valley Run Stone neither admits nor denies the alleged violations but agrees to pay a civil penalty of \$24,500. 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. Valley Run Stone must pay a civil penalty of \$24,500 no later than January 17, 2004, which is the 30th day after the date of this order. Valley Run Stone must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Valley Run Stone's federal employer identification number, 36-2586514, must be included on the certified check or money order.
3. Valley Run Stone must send the certified check or money order to:

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

A copy of the check shall be sent to:

Christopher P. Perzan
Assistant Attorney General
Environmental Bureau
188 West Randolph Street, 20th Floor
Chicago, IL 60601

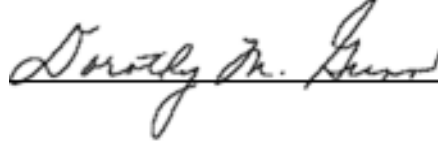
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
5. Valley Run Stone must cease and desist from the alleged violations.

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) (2002); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 18, 2003 by a vote of 5-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board