

ILLINOIS POLLUTION CONTROL BOARD
July 22, 2004

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 04-211
)	(Enforcement - Land)
CLINTON LANDFILL, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

On May 25, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Clinton Landfill, Inc. (Clinton Landfill). See 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The complaint concerns Clinton Landfill’s landfill facility at Route 51, Clinton, DeWitt County. The parties seek to settle. For the reasons below, the Board accepts the parties’ stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5/1 et seq. (2002)), 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 (2002); 35 Ill. Adm. Code 103. In this case, the People allege that Clinton Landfill violated Section 21(d)(1), (e), (f)(1), and (f)(2) of the Environmental Protection Act (Act) (415 ILCS 5/21(d)(1), (e), (f)(1), and (f)(2) (2002)); 35 Ill. Adm. Code 703.121; and conditions III.1 and III.2.f of permit number 1996-102, Modification 15. The People further allege that Clinton Landfill violated these provisions by conducting landfill operations in a way that resulted in acceptance of hazardous waste and by operating a hazardous waste treatment, storage, or disposal facility without a Resource Conservation and Recovery Act (RCRA) permit and in violation of RCRA regulations.

On May 25, 2004, the People and Clinton Landfill also 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)), 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 from hearing. The Board published newspaper notice in the *Clinton Daily Journal* on June 21, 2004. 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 Clinton Landfill'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)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

Clinton Landfill neither admits nor denies the alleged violations but agrees to engage in a supplemental environmental project (SEP) to the value of \$25,000. The stipulation is quite detailed in its particulars. In short summary, Clinton Landfill will accept as much as 2,000 tons of waste from the People, to offset a civil penalty. In the event that the People cannot use all of the specified landfill capacity within five to seven years, Clinton Landfill will pay any remaining balance of the SEP's value as a civil penalty, calculated by multiplying the remaining tonnage of the SEP times \$20 per ton, up to a maximum of 1,250 tons. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2002), *as amended by P.A. 93-575*, (eff. Jan. 1, 2004), which may mitigate or aggravate the civil penalty amount.

The People and Clinton Landfill 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. In summary, Clinton County Landfill agrees to engage in a supplemental environmental review project (SEP) to the value of \$25,000. Clinton Landfill must provide the People with landfill capacity for the disposal of 2,000 tons of waste at its municipal solid waste landfill on Route 51, Clinton, DeWitt County.
2. If specified circumstances occur and waste disposal to a value of \$25,000 is not undertaken, then the Clinton Landfill shall pay the remaining value of the SEP into the Environmental Protection Trust Fund by a certified check as specified in the stipulation.
3. Clinton Landfill must send any certified check or money order to:

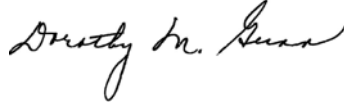
Illinois Environmental Protection Agency
Fiscal Services Division
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276
4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).

5. Clinton Landfill 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 July 22, 2004, by a vote of 5-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board