

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 Brickyard Disposal and Recycling'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.

Brickyard Disposal and Recycling denies the alleged violations, but agrees to engage in a supplemental environmental project (SEP) to the value of \$40,000, to offset a civil penalty. The stipulation is quite detailed in its particulars. In short summary, Brickyard Disposal and Recycling will provide hauling for waste from 3 specified sites in or near Batchton and Easton, Illinois. Brickyard Disposal and Recycling will also accept as much as 1,142 tons of waste from the People for disposal at one of four designated landfills: ADS McLean, Bloomington; Sangamon Valley, Springfield; RCS Landfill, Edwardsville; and/or Brickyard, Danville. 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 in amounts and at rates provided in the stipulation.

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 Brickyard Disposal and Recycling 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, Brickyard Disposal and Recycling agrees to engage in a supplemental environmental review project (SEP) to the value of \$40,000. Brickyard Disposal and Recycling must provide hauling for waste from 3 specified sites in or near Batchton and Easton, Illinois. Brickyard Disposal and Recycling must also accept as much as 1,142 tons of waste from the People for disposal at one of four designated landfills: ADS McLean, Bloomington; Sangamon Valley, Springfield; RCS Landfill, Edwardsville; and/or Brickyard, Danville.
2. If specified circumstances occur and waste hauling and disposal to a value of \$40,000 is not undertaken, then Brickyard Disposal and Recycling must pay the remaining value of the SEP into the Environmental Protection Trust Fund by a certified check as specified in the stipulation.
3. Brickyard Disposal and Recycling 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

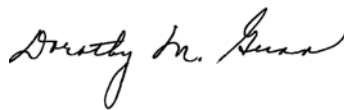
The stipulation contains additional instructions and details payment.

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)). The stipulation includes additional instructions and details concerning interest.
5. Brickyard Disposal and Recycling 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 August 19, 2004, by a vote of 4-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board