

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	
)	PCB No. _____
RELIABLE SAND & GRAVEL CO., INC.,)	
an Illinois corporation,)	(Enforcement - Land)
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

TO: SEE ATTACHED SERVICE LIST


PLEASE TAKE NOTICE that today, June 17, 2009, I have filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint a true and correct copy of which is attached and hereby served upon you.

Pursuant to 35 Ill. Adm. Code 103.204(f), I am required to state that failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

NOTIFICATION

YOU ARE HEREBY NOTIFIED that financing may be available through the Illinois Environmental Facilities Financing Act (20 ILCS 3515/1 *et seq.*) to correct the alleged pollution.

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

BY: 
STEPHEN J. SYLVESTER
Assistant Attorney General
Environmental Bureau
69 W. Washington St., Suite 1800
Chicago, Illinois 60602
(312) 814-2087
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Date: June 17, 2009

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

Reliable Sand & Gravel Co., Inc.
Donald R. Roberts, Registered Agent
2121 S. River Rd.
McHenry, IL 60050

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
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RELIABLE SAND & GRAVEL CO., INC.,)	
an Illinois corporation,)	(Enforcement - Land)
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Respondent.)	

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, complains of the Respondent, RELIABLE SAND & GRAVEL CO., INC., an Illinois corporation, as follows:

COUNT I
 VIOLATION OF CLEAN CONSTRUCTION OR DEMOLITION DEBRIS
LOAD CHECKING AND RECORD KEEPING REQUIREMENTS

This Count is brought 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 at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2006).

1. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2006), and charged, *inter alia*, with the duty of enforcing the Act.

2. At all times relevant to this Complaint, Respondent, RELIABLE SAND & GRAVEL CO., INC., ("Reliable") was and is an Illinois corporation in good standing with the

State of Illinois.

3. At all times relevant to this Complaint, Reliable owned and operated a facility to operate a clean construction or demolition debris ("CCDD") fill operation at 2121 South River Road, McHenry, McHenry County, Illinois ("Site").

4. On August 8, 2005, Reliable applied to the Illinois EPA for interim authorization to operate a CCD fill operation at the Site.

5. From some time after August 8, 2005, until at least November 1, 2007, Reliable operated its CCDD fill operation at the Site, pursuant to the Illinois EPA-issued Interim Authorization No. CCDD0002.

6. On February 15, 2008, Reliable applied to the Illinois EPA for a permit to operate a CCDD fill operation at the Site.

7. On August 13, 2008, the Illinois EPA issued to Reliable Permit Number CCDD2008-011-DE/OP to operate a CCDD fill operation at the Site.

8. On September 27, 2007, the Illinois EPA inspected the Site. At that time, Reliable did not have a load checking program nor did it inspect incoming loads of CCDD visually or with an instrument with a photo ionization detector ("PID") utilizing a lamp of 10.6 electron volts ("eV") or greater or an instrument with a flame ionization detector ("FID"), or other monitoring devices approved by the Agency.

9. On September 27, 2007, the Illinois EPA inspected the Site. At that time, Reliable did not maintain written procedures for load checking, load rejection notifications, and training.

10. Section 22.51(a) of the Act, 415 ILCS 5/22.51(a) (2006), provides as follows:

Clean Construction or Demolition Debris Fill Operations.

- (a) No person shall conduct any clean construction or demolition debris fill operation in violation of this Act or any regulations or standards adopted by the Board.

11. Section 1100.201 of the Illinois Pollution Control Board ("Board") CCDD

Regulations, 35 Ill. Adm. Code 1100.201, provides, in pertinent part, as follows:

Section 1100.201 Prohibitions

- a) *No person shall conduct any CCDD fill operation in violation of the Act or any regulations or standards adopted by the Board. [415 ILCS 5/22.51(a)].*
- b) CCDD fill operations must not accept waste for use as fill.

12. Section 3.315 of the Act, 415 ILCS 5/3.315 (2006), provides the following

definition:

"PERSON" is an individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust estate, political subdivision, state agency, or other legal entity, or their legal representative, agent or assigns.

13. Reliable, a corporation, is a "person" as that term is defined in Section 3.315 of the Act, 415 ILCS 5/3.315 (2006).

14. Section 1100.103 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.103, provides the following definitions:

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part will be the same as that applied to the same words or terms in the Environmental Protection Act [415 ILCS 5]:

* * *

"Operator" means a person responsible for the operation and maintenance of a CCDD fill operation.

"Owner" means a person who has any direct or indirect interest in a CCDD fill operation or in land on which a person operates and maintains a CCDD fill

operation. A "direct or indirect interest" does not include the ownership of publicly traded stock. The "owner" is the "operator" if there is no other person who is operating and maintaining a CCDD fill operation.

* * *

15. Reliable is both an "operator" and an "owner" of the Site, as those terms are defined in Section 1100.103 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.103.

16. Section 1100.205 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.205, provides in pertinent part, as follows:

Load Checking

The owner or operator must institute and conduct a load checking program designed to detect attempts to dispose of waste at the facility. At a minimum, the load checking program must consist of the following components:

a) Routine Inspections

1) An inspector designated by the facility must inspect every load before its acceptance at the facility utilizing an elevated structure, a designated ground level inspection area, or another acceptable method as specified in the Agency permit. In addition to a visual inspection, the inspector must use an instrument with a photo ionization detector utilizing a lamp of 10.6 eV or greater or an instrument with a flame ionization detector, or other monitoring devices approved by the Agency, to inspect each load. All instruments shall be interpreted based on the manufacturer's margin of error. Any reading in excess of background levels using any of these instruments must result in the rejection of the inspected load. In addition, any reading in excess of background levels on any monitoring device used by the Agency during an Agency inspection must result in the rejection of the inspected load.

2) Cameras or other devices may be used to record the visible contents of shipments. Where such devices are employed, their use should be designated on a sign posted near the entrance to the facility.

b) Random Inspections

1) In addition to the inspections required under subsection (a) of this Section, an inspector designated by the facility must conduct a discharge inspection of at least one randomly selected load delivered to the facility each day. The driver of the randomly selected load must be directed to

discharge the load at a separate, designated location within the facility. The inspector must conduct an inspection of the discharged material that includes, but is not limited to, additional visual inspection and additional instrument testing using the instruments required under subsection (a)(1) of this Section. All instruments shall be interpreted based on the manufacturer's margin of error. Any reading in excess of background levels using any of these instruments must result in the rejection of the inspected load. In addition, any reading in excess of background levels on any monitoring device used by the Agency during an Agency inspection must result in the rejection of the inspected load.

2) Cameras or other devices may be used to record the visible contents of shipments. Where such devices are employed, their use should be designated on a sign posted near the entrance to the facility.

c) Documentation of Inspection Results

The documentation for each inspection must include, at a minimum, the following:

1) The date and time of the inspection, the name of the hauling firm, the vehicle identification number or license plate number, and the source of the CCDD;

2) The results of the routine inspection required under subsection (a) of this Section, including, but not limited to, the monitoring instruments used, whether the load was accepted or rejected, and for rejected loads the reason for the rejection;

3) The results of any random inspection required under subsection (b) of this Section, including, but not limited to, the monitoring instruments used, whether the load was accepted or rejected, and for rejected loads the reason for the rejection; and

4) The name of the inspector

* * *

g) The owner or operator must ensure that all appropriate facility personnel are properly trained in the identification of material that is not CCDD.

h) All field measurement activities relative to equipment and instrument operation, calibration and maintenance and data handling shall be conducted in accordance with the following:

1) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846), Vol. One, Ch. One (Quality Control), incorporated by reference at Section 1100.104 of this Part;

2) The equipment or instrument manufacturer's or vendor's published standard operating procedures; or

3) Other operating procedures specified in the Agency permit.

17. From a date better known to Reliable, and on at least September 27, 2007, to a date better known by Reliable, Reliable failed to conduct, and maintain records of, routine inspections of each incoming load at the Site by failing to both visually inspect and use a PID utilizing a lamp of 10.6 eV or greater, or an instrument with a FID, or other Illinois EPA-approved monitoring device to inspect each incoming load at the Site.

18. By failing to conduct, and maintain records of, routine inspections of each incoming load at the Site by failing to both visually inspect and use a PID utilizing a lamp of 10.6 eV or greater, or an instrument with a FID, or other Illinois EPA-approved monitoring device to inspect each incoming load at the Site, Reliable violated Section 1100.205(a)(1), and (c) the Board CCDD Regulations, 35 Ill. Adm. Code 1100.205(a)(1), and (c), and thereby violated Section 1100.201(a) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a).

19. From a date better known to Reliable, and on at least September 27, 2007, to a date better known by Reliable, Reliable failed to conduct, and maintain records of, a discharge inspection of at least one randomly selected load delivered to the Site each day using a PID utilizing a lamp of 10.6eV or greater, or an instrument with a FID, or other Illinois EPA-approved monitoring device.

20. By failing to conduct, and maintain records of, a discharge inspection of at least one randomly selected load delivered to the Site each day using a PID utilizing a lamp of 10.6eV or

greater, or an instrument with a FID, or other Illinois EPA-approved monitoring device, Reliable violated Section 1100.205(b)(1), and (c) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.205(b)(1), and (c), and thereby violated thereby violated Section 1100.201(a) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a).

21. From a date better known to Reliable, and on at least September 27, 2007, to a date better known by Reliable, Reliable failed to demonstrate that all appropriate Site personnel are trained in the identification of material that is not CCDD.

22. By failing to demonstrate that all appropriate Site personnel are trained in the identification of material that is not CCDD, Reliable violated Section 1100.205(g) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.205(g), and thereby violated Section 1100.201(a) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a).

23. From a date better known to Reliable, and on at least September 27, 2007, to a date better known by Reliable, Reliable failed to conduct all field measurement activities in accordance with any of the following procedures: 1) "Test Methods for Evaluating Solid Waste, Physical/Chemical methods, EPA Publication SW-846 (Third Edition, 1986 as amended by Updates I, II, IIA, IIB, III, IIIA and IIIB), which is incorporated through 35 Ill. Adm. Code 1100.104; 2) The equipment or instrument manufacturer's or vendor's published standard operating procedures; or 3) Other operating procedures specified by the Agency permit.

24. By failing to conduct all field measurement activities as alleged in paragraph 23, Reliable violated 1100.205(h) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.205(h), and thereby violated thereby violated Section 1100.201(a) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a).

25. Section 1100.210 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.210, provides as follows:

Recordkeeping Requirements

The owner or operator must maintain an operating record at the facility or in some alternative location specified in the Agency permit. The owner or operator must make the operating record available for inspection and copying by the Agency upon request during normal business hours. Information maintained in the operating record must include, but is not limited to, the following:

- a) Any information submitted to the Agency pursuant to this Part, including, but not limited to, copies of all permits, permit applications, and annual reports;
- b) Written procedures for load checking, load rejection notifications, and training required under Section 1100.205 of this Part.

26. From a date better known to Reliable, and on at least September 27, 2007, to a date better known by Reliable, Reliable failed to keep records of training reports, written procedures for load checking, and load rejection notifications at the Site or in some alternative location specified in the Agency permit.

27. By failing to keep records of training reports, written procedures for load checking, and load rejection notifications at the Site or in some alternative location specified in the Agency permit, Reliable Princeton violated 1100.210 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.210, and thereby violated thereby violated Section 1100.201(a) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a).

28. As alleged herein, by violating Sections 1100.201(a), 1100.205(a)(1), (b)(1), (c), (g), and (h), and 1100.210 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a), 1100.205(a)(1), (b)(1), (c), (g), and (h), and 1100.210, Reliable thereby violated Section 22.51(a) of the Act, 415 ILCS 5/22.51(a) (2006).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, RELIABLE SAND & GRAVEL CO., INC., an Illinois corporation, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

2. Finding that the Respondent has violated Section 22.51(a) of the Act, 415 ILCS 5/22.51(a) (2006), and Sections 1100.201(a), 1100.205(a)(1), (b)(1), (c), (g), and (h), and 1100.210 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a), 1100.205(a)(1), (b)(1), (c), (g), and (h), and 1100.210;

3. Ordering the Respondent to cease and desist from any further violations of Section 22.51(a) of the Act, 415 ILCS 5/22.51(a) (2006), and Sections 1100.201(a), 1100.205(a)(1), (b)(1), (c), (g), and (h), and 1100.210 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a), 1100.205(a)(1), (b)(1), (c), (g), and (h), and 1100.210;

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 22.51(a) of the Act, 415 ILCS 5/22.51(a) (2006), and Sections 1100.201(a), 1100.205(a)(1), (b)(1), (c), (g), and (h), and 1100.210 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a), 1100.205(a)(1), (b)(1), (c), (g), and (h), and 1100.210, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondent to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT II
CONDUCTING A CLEAN CONSTRUCTION OR DEMOLITION DEBRIS
FILL OPERATION WITHOUT INTERIM AUTHORIZATION OR A PERMIT

1. This Count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by Lisa Madigan, Attorney General of the State of Illinois, on her own motion, pursuant to the terms and provisions of Section 42 of the Act, 415 ILCS 5/42 (2006).

2-12. The Complainant realleges and incorporates herein by reference paragraphs 2 through 7 and paragraphs 10 and 12 through 15 of Count I, as paragraphs 2 through 12 of this Count II.

13. Section 22.51(b) of the Act, 415 ILCS 5/22.51(b) (2006), provides, in pertinent part, as follows:

Clean Construction or Demolition Debris Fill Operations.

* * *

(b)(1)(A) Beginning 30 days after the effective date of this amendatory Act of the 94th General Assembly but prior to July 1, 2008, no person shall use clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation, unless they have applied for an interim authorization from the Agency for the clean construction or demolition debris fill operation.

* * *

(2) Beginning September 1, 2006, owners and operators of clean construction or demolition debris fill operations shall, in accordance with a schedule prescribed by the Agency, submit to the Agency applications for the permits required under this Section. The Agency shall notify owners and operators in writing of the due date for their permit application. The due date shall be no less than 90 days after the date of the Agency's written notification. Owners and operators who do not receive a written notification from the Agency by October 1, 2007, shall submit a permit application to the Agency by January 1, 2008. The interim authorization of owners and operators who fail to submit a permit application to the Agency by the permit application's due date shall terminate on (i) the due date established by the Agency if the owner or operator received a written notification from the Agency prior to October 1, 2007, or (ii) or January 1, 2008, if the owner or operator did not receive a written notification from the Agency by October 1, 2007.

(3) On and after July 1, 2008, no person shall use clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation without a permit granted by the Agency for the clean construction or demolition debris fill operation or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with Board regulations and standards adopted under this Act.

14. On July 16, 2007, the Illinois EPA sent a letter to Reliable notifying it that the due date for submitting to the Illinois EPA its permit application to operate its CCDD fill operation was November 1, 2007.

15. Reliable failed to submit its permit application to operate its CCDD fill operation to the Illinois EPA by November 1, 2007.

16. By failing to submit its permit application to operate its CCDD fill operation to the Illinois EPA by November 1, 2007, Reliable's Illinois EPA-issued Interim Authorization No. CCDD0002 terminated on November 1, 2007 pursuant to Section 22.51(b)(2) of the Act, 415 ILCS 5/22.51(b)(2) (2006).

17. From November 1, 2007 through June 30, 2008, by operating its CCDD fill operation without interim authorization issued by the Illinois EPA, Reliable violated Section 22.51(a) of the Act, 415 ILCS 5/22.51(a) (2006).

18. From July 1, 2008 through August 12, 2008, by operating its CCDD fill operation without a permit issued by the Illinois EPA, Reliable violated Section 22.51(b)(3) of the Act, 415 ILCS 5/22.51(b)(3) (2006) and thereby violated Section 22.51(a) of the Act, 415 ILCS 5/22.51(a) (2006).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, RELIABLE SAND & GRAVEL CO., INC., an Illinois corporation, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 22.51(a) and (b)(3) of the Act, 415 ILCS 5/22.51(a) and (b)(3) (2006);
3. Ordering the Respondent to cease and desist from any further violations of Section 22.51(a) and (b)(3) of the Act, 415 ILCS 5/22.51(a) and (b)(3) (2006);
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 22.51(a) and (b)(3) of the Act, 415 ILCS 5/22.51(a) and (b)(3) (2006), with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondent to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT III
OPEN DUMPING

- 1-9. The Complainant realleges and incorporates herein by reference paragraphs 1 through 7 and paragraphs 12 through 13 of Count I, as paragraphs 1 through 9 of this Count III.
10. On September 27, 2007, the Illinois EPA inspected the Site. At that time there were approximately 100 cubic yards of leaves and sod at the face of the fill area at the Site.
11. Section 21(a) of the Act, 415 ILCS 5/21(a) (2006), provides as follows:
No person shall:
 - a) Cause or allow the open dumping of any waste.
12. Section 3.305 of the Act, 415 ILCS 5/3.305 (2006), provides the following

definition:

“OPEN DUMPING” means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

13. Section 3.385 of the Act, 415 ILCS 5/3.385 (2006), provides the following

definition:

“REFUSE” means waste.

14. Section 3.535 of the Act, 415 ILCS 5/3.535 (2006), provides the following

definition:

“WASTE” means any garbage, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities...

15. Section 3.470 of the Act, 415 ILCS 5/3.470 (2006), provides the following

definition:

“Solid waste” means waste.

16. Section 3.270 of the Act, 415 ILCS 5/3.270 (2006), provides the following

definition:

“Landscape waste” means all accumulations of grass or shrubbery cuttings, leaves, tree limbs and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees.

17. Section 3.185 of the Act, 415 ILCS 5/3.185 (2006), provides the following

definition:

“Disposal” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

18. Section 3.540 of the Act, 415 ILCS 5/3.540 (2006), provides the following definition:

“Waste disposal site” is a site on which solid waste is disposed.

19. Section 3.445 of the Act, 415 ILCS 5/3.445 (2006), provides the following definition:

“Sanitary landfill” means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580, and regulations thereunder, and without creating nuisances or hazards to public health or safety, by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day's operation, or by such other methods and intervals as the Board may provide by regulation.

20. The approximately 100 cubic yards of leaves and sod that were accepted by Reliable at the Site and dumped, at the face of the fill area constitutes, “landscape waste,” as that term is defined in Section 3.270 of the Act, 415 ILCS 5/3.270 (2006), “waste,” as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2006), “refuse,” as that term is defined in Section 3.385 of the Act, 415 ILCS 5/3.385 (2006) and “solid waste,” as that term is defined in Section 3.470 of the Act, 415 ILCS 5/3.470 (2006).

21. Reliable’s dumping, depositing, or placing of approximately 100 cubic yards of landscape waste that was accepted by it and dumped at the face of the fill area, constitutes “disposal,” as that term is defined in Section 3.185 of the Act, 415 ILCS 5/3.185 (2006).

22. The face of the fill area, where Reliable dumped, deposited, or placed approximately 100 cubic yards of landscape waste constitutes a “waste disposal site,” as that term is defined in Section 3.540 of the Act, 415 ILCS 5/3.540 (2006).

23. At all times relevant to the Complaint, Reliable operated without a permit from the Illinois EPA to treat, store, or dispose of waste at the Site.

24. The face of the fill area, where Reliable dumped, deposited, or placed approximately 100 cubic yards of landscape waste does not meet the requirements of a "sanitary landfill," as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2006), as Reliable did not have a permit to dispose of landscape waste at the Site.

25. Reliable's dumping, depositing, or placing of approximately 100 cubic yards of landscape waste at the face of the fill area constitutes "open dumping," as that term is defined in Section 3.305 of the Act, 415 ILCS 5/3.305 (2006).

26. On at least September 27, 2007, on dates better known to Reliable, by causing or allowing open dumping at the Site, as alleged herein, Reliable violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2006).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, RELIABLE SAND & GRAVEL CO., INC., an Illinois corporation, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2006);
3. Ordering the Respondent to cease and desist from any further violations of Section 21(a) of the Act, 415 ILCS 5/21(a) (2006);
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 21(a) of the Act, 415 ILCS 5/21(a) (2006), with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2006), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT IV

CONDUCTING A WASTE DISPOSAL OPERATION WITHOUT A PERMIT

1-23. The Complainant realleges and incorporates herein by reference paragraphs 1 through 7 and paragraphs 12 through 13 of Count I, and paragraphs 10 and 12 through 24 of Count III, as paragraphs 1 through 23 of this Count IV.

24. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2006), provides in pertinent part as follows:

No person shall:

- d. Conduct any waste-storage, waste-treatment, or waste-disposal operation:
 - 1. without a permit granted by the Agency or in violation of any conditions imposed by such permit,

25. On at least September 27, 2007, on dates better known to Reliable, Reliable disposed of approximately 100 cubic yards of landscape waste at the face of the fill area at the Site without a permit granted by the Agency.

26. On at least September 27, 2007, on dates better known to Reliable, by disposing of approximately 100 cubic yards of landscape waste at the face of the fill area without a permit granted by the Agency, Reliable violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2006).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, RELIABLE SAND & GRAVEL CO., INC., an Illinois corporation, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2006);
3. Ordering the Respondent to cease and desist from any further violations of Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2006);
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2006), with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondent to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT V
DISPOSAL OF NON-CLEAN CONSTRUCTION OR DEMOLITION DEBRIS
WASTE AT THE SITE

1-27. The Complainant realleges and incorporates herein by reference paragraphs 1 through 7 and paragraphs 10 through 15 of Count I, and paragraphs 10 and 12 through 24 of Count III, as paragraphs 1 through 27 of this Count V.

28. Section 21 of the Act, 415 ILCS 5/21 (2006), provides, in pertinent part, as follows:

No person shall:

- d. Conduct any waste-storage, waste-treatment, or waste-disposal operation:

* * *

2. in violation of any regulations or standards adopted by the Board under this Act.

* * *

e. Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

29. Section 1100.205(f) of the Board CCDD Regulations, 35 Ill. Adm. Code

1100.205(f), provides as follows:

Section 1100.205 Load Checking

The owner or operator must institute and conduct a load checking program designed to detect attempts to dispose of waste at the facility. At a minimum, the load checking program must consist of the following components:

* * *

f) If material other than CCDD is discovered to be improperly accepted or deposited at the facility, the owner or operator must remove and properly dispose of the material.

30. Section 3.160(b) of the Act, 415 ILCS 5/3.160(b) (2006), provides the following definition:

Construction or demolition debris

(b) "Clean construction or demolition debris" means uncontaminated broken concrete without protruding metal bars, bricks, rock, stone, reclaimed or other asphalt pavement, or soil generated from construction or demolition activities. ...

31. The approximately 100 cubic yards of leaves and sod that were accepted by Reliable at the Site and dumped at the face of the fill area constitute "landscape waste" as that term is defined in Section 3.270 of the Act, 415 ILCS 5/3.270 (2006), and therefore did not constitute "CCDD," as that term is defined in Section 3.160(b) of the Act, 415 ILCS 5/3.160(b) (2006).

32. On at least September 27, 2007, on dates better known to Reliable, by accepting non-CCDD landscape waste for fill at the Site without removing and properly disposing of it, Reliable violated Section 1100.205(f) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.205(f), and thereby violated Section 1100.201(b) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(b).

33. By violating Sections 1100.201(b) and 1100.205(f) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(b) and 1100.205(f), Reliable thereby violated Sections 1100.201(a) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a).

34. By violating Sections 1100.201(a) and (b) and 1100.205(f) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a) and (b) and 1100.205(f), Reliable thereby violated Section 22.51(a) of the Act, 415 ILCS 5/22.51(a) (2006).

35. On at least September 27, 2007, on dates better known to Reliable, by disposing of approximately 100 cubic yards of non-CCDD landscape waste at the face of the fill area in violation of Sections 1100.201(a) and (b) and 1100.205(f) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a) and (b) and 1100.205(f), Reliable thereby violated Section 21(d)(2) and (e) of the Act, 415 ILCS 5/21(d)(2) and (e) (2006).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, RELIABLE SAND & GRAVEL CO., INC., an Illinois corporation, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that the Respondent has violated Sections 21(d)(2) and (e), and 22.51(a) of

the Act, 415 ILCS 5/21(d)(2) and (e), and 22.51(a) (2006), and Sections 1100.201(a) and (b) and 1100.205(f) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a) and (b) and 1100.205(f);

3. Ordering the Respondent to cease and desist from any further violations of Sections 21(d)(2) and (e), and 22.51(a) of the Act, 415 ILCS 5/21(d)(2) and (e), and 22.51(a) (2006), and Sections 1100.201(a) and (b) and 1100.205(f) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a) and (b) and 1100.205(f);

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Sections 21(d)(2) and (e), and 22.51(a) of the Act, 415 ILCS 5/21(d)(2) and (e), and 22.51(a) (2006), and Sections 1100.201(a) and (b) and 1100.205(f) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a) and (b) and 1100.205(f), with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondent to pay all costs of this action, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

COUNT VI
VIOLATION OF CLEAN CONSTRUCTION OR DEMOLITION DEBRIS
BOUNDARY CONTROL REQUIREMENTS

1-13. The Complainant realleges and incorporates herein by reference paragraphs 1 through 7 and paragraphs 10 through 15 of Count I, as paragraphs 1 through 13 of this Count VI.

14. Section 1100.207 of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.207, provides as follows:

Boundary Control

- a) Unauthorized vehicular access to the working face of all units and to all other areas within the boundaries of the facility must be restricted.
- b) A permanent sign must be posted at the entrance to the facility or each unit stating that only CCDD is accepted for use as fill.

15. On September 27, 2007, the Illinois EPA inspected the Site. At that time, Reliable did not restrict unauthorized vehicular access to the working face of the fill area at the Site and all other areas within the boundaries of the Site.

16. From a date better known to Reliable, and on at least September 27, 2007, to a date better known by Reliable, Reliable failed to restrict unauthorized vehicular access to the working face of the fill area at the Site and all other areas within the boundaries of the Site.

17. By failing to restrict unauthorized vehicular access to the working face of the fill area at the Site and all other areas within the boundaries of the Site, Reliable violated Section 1100.207(a) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.207(a), and thereby violated thereby violated Section 1100.201(a) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a).

18. At the time of the Illinois EPA's September 27, 2007 inspection, Reliable did not post a permanent sign at the entrance to the Site stating that only CCDD is accepted for use as fill.

19. From a date better known to Reliable, and on at least September 27, 2007, to a date better known by Reliable, Reliable failed to post a permanent sign at the entrance to the Site stating that only CCDD is accepted for use as fill.

20. By failing to post a permanent sign at the entrance to the Site stating that only CCDD is accepted for use as fill, Reliable violated Section 1100.207(b) of the Board CCDD

Regulations, 35 Ill. Adm. Code 1100.207(b), and thereby violated thereby violated Section 1100.201(a) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a).

21. As alleged herein, by violating Sections 1100.201(a) and 1100.207(a) and (b) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a) and 1100.207(a) and (b), Reliable thereby violated Section 22.51(a) of the Act, 415 ILCS 5/22.51(a) (2006).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against the Respondent, RELIABLE SAND & GRAVEL CO., INC., an Illinois corporation, as follows:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

2. Finding that the Respondent has violated Section 22.51(a) of the Act, 415 ILCS 5/22.51(a) (2006), and Sections 1100.201(a) and 1100.207(a) and (b) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a) and 1100.207(a) and (b);

3. Ordering the Respondent to cease and desist from any further violations of Section 22.51(a) of the Act, 415 ILCS 5/22.51(a) (2006), and Sections 1100.201(a) and 1100.207(a) and (b) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a) and 1100.207(a) and (b);

4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of Section 22.51(a) of the Act, 415 ILCS 5/22.51(a) (2006), and Sections 1100.201(a) and 1100.207(a) and (b) of the Board CCDD Regulations, 35 Ill. Adm. Code 1100.201(a) and 1100.207(a) and (b) with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;

5. Ordering Respondent to pay all costs of this action, including attorney, expert

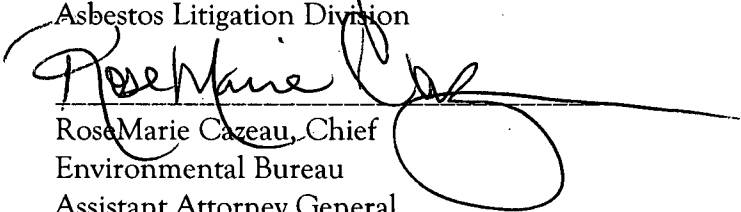
witness and consultant fees expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate and just.

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

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

By:


Rose Marie Cazeau, Chief
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CERTIFICATE OF SERVICE

I, Stephen J. Sylvester, an Assistant Attorney General, do certify that a true and correct copy of the Complaint and Notice of Filing were sent by certified mail with return receipt requested to the persons listed on the Notice of Filing on June 17, 2009.

BY:


STEPHEN J. SYLVESTER