

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulations and proposed settlements. *See* 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 Montalbano'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) (2008)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Montalbano does not affirmatively admit the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2008)), which may mitigate or aggravate the civil penalty amount. Montalbano agrees to pay a civil penalty of \$10,000.00. The People and Montalbano 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.
2. Montalbano Builders, Inc. (Montalbano) must pay a civil penalty of \$10,000.00 no later than January 4, 2010, which is the first business day following the 30th day after the date of this order. Montalbano must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name, case number, and Montalbano's federal tax identification number must appear on the face of the certified check or money order.
3. Montalbano must submit payment of the civil penalty to:

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

Montalbano must send a copy of the certified check or money order and any transmittal letter to:

Zemeheret Bereket-Ab
Environmental Bureau
Illinois Attorney General's Office
69 West Washington Street, Suite 1800
Chicago, Illinois 60602

4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2008)) at the rate


set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).

5. Montalbano must cease and desist from future violations of the Environmental Protection Act and Board regulations that were the subject of the complaint.

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) (2008); *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, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 3, 2009, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board