ILLINOIS POLLUTION CONTROL BOARD
October 21, 2010

PEOPLE OF THE STATE OF ILLINOIS,   )
)
        Complainant,   )
)
        v.   )   PCB 11-11
)   (Enforcement - Air)
CLINTON LANDFILL, INC.,   )
an Illinois corporation,   )
)
        Respondent.   )

OPINION AND ORDER OF THE BOARD (by G.T. Girard):

On September 9, 2010, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against Clinton Landfill, Inc. (Clinton). The complaint, which the Board accepted on September 16, 2010, concerns Clinton's sanitary landfill located near the City of Clinton in DeWitt County. Accompanying the complaint was a stipulation, proposal for settlement, and request for relief from the hearing requirement. For the reasons below, the Board directs that a further filing be made to reconcile an inconsistency between the complaint and the stipulation.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), 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 (2008); 35 Ill. Adm. Code 103. In this case, the People allege in count I of the complaint that Clinton violated Section 9(a) of the Act (415 ILCS 5/9(a) (2008)) by causing or allowing the emissions of offensive and malodorous landfill gas from the Clinton Landfill so as to unreasonably interfere with the use and enjoyment of the neighbors' property, causing air pollution and an odor nuisance. Count I also alleges that Clinton violated Sections 811.311(d)(2) and 811.312(c) of the Board's waste disposal regulations (35 Ill. Adm. Code 811.311(d)(2), 811.312(c)), and thus Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2008)), by operating Clinton Landfill's gas management system in a manner resulting in malodors being detected beyond the property boundary. According to count II of the complaint, Clinton violated Section 811.106(a) of the Board's waste disposal regulations (35 Ill. Adm. Code 811.106(a)), and thus Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2008)), by failing to provide an adequate amount of clean soil material on all exposed waste by the end of each day of operation. Finally, in count III, the People allege that Clinton violated the terms and conditions of its permit, and thus Section 21(d)(l) of the Act (415 ILCS 5/21(d)(1) (2008)), by causing or allowing the emissions of offensive and malodorous landfill gas from the Clinton Landfill so as to unreasonably interfere with the use and enjoyment of the neighbors' property, causing air pollution and an odor nuisance.

As noted above, also on September 9, 2010, the People and Clinton 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), 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). Under the proposed stipulation, Clinton does not affirmatively admit the alleged violations but agrees to pay a civil penalty of $10,000 and to perform a supplemental environmental project (SEP) with a settlement value of $30,000, consisting of providing landfill disposal services to the People.

Generally, unless the Board determines that a hearing is needed, the Board causes notice of a stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board denies the parties' request for relief and holds a hearing. *See* 415 ILCS 5/31(c)(2) (2008); 35 Ill. Adm. Code 103.300(b), (c). In this case, there is an inconsistency between the complaint and the stipulation that must be reconciled. Specifically, the statement of alleged violations in the stipulation does not include count III of the complaint. *See* Stipulation at 2. Accordingly, the Board directs that either the People file an amended complaint or a statement that they wish count III to proceed to hearing, or the People and Clinton file an amended stipulation and proposed settlement, accompanied by another request for relief from the hearing requirement. *See* People v. Waste Management of Illinois, Inc., PCB 11-14, slip op. at 2 (Oct. 7, 2010); People v. Swinson, PCB 10-08, slip op. at 2 (June 17, 2010).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 21, 2010, by a vote of 5-0.

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John Therriault, Assistant Clerk
Illinois Pollution Control Board