

ILLINOIS POLLUTION CONTROL BOARD
June 16, 2011

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB 10-71
)	(Enforcement - Land)
87th & GREENWOOD, LLC, a Delaware)	
Limited Liability Company, INNOVATIVE)	
RECYCLING TECHNOLOGIES, INC., a)	
Connecticut corporation, and LAND)	
RECLAMATION SERVICES, INC., an)	
Illinois corporation,)	
)	
Respondents.)	

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

On March 19, 2010, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a three-count complaint against 87th & Greenwood, LLC (87th & Greenwood), Innovative Recycling Technologies, Inc. (IRT), and Land Reclamation Services, Inc. (LRS) (collectively, respondents). The complaint concerns 87th & Greenwood's storage facility at 1040 E. 87th Street, Chicago, Cook County (Excavation Site) and LRS's clean construction and demolition debris fill business at 1127 South Chicago Street, Joliet, Will County (LRS Site). The Board previously found that LRS had violated Sections 21(a), (d)(1), and (e) of the Environmental Protection Act (415 ILCS 5/21(a), (d)(1), (e) (2008)) as alleged in the complaint. The Board ordered LRS to pay a total civil penalty of \$20,000, and to cease and desist from further violations.¹ The remaining parties, 87th & Greenwood and IRT, now seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

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 that respondents violated Section 21(a) and (e) of the Act (415 ILCS 21(a), (e) (2008)) by causing and allowing the disposal of waste from the Excavation Site (count 1) and disposing of waste at the LRS Site which was not permitted for waste disposal by the Illinois Environmental Protection Agency (count 2).

¹ People of the State of Illinois v. 87th & Greenwood, LLC, a Delaware Limited Liability Company, Innovative Recycling Technologies, Inc., a Connecticut corporation, and Land Reclamation Services, Inc., an Illinois corporation, PCB 10-71, August 19, 2010.

On April 21, 2011, the parties 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). The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Chicago Sun-Times* on May 18, 2011. 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) (2008); 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. *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 87th & Greenwood and IRT'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. 87th & Greenwood and IRT do not affirmatively admit the alleged liability. 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. 87th & Greenwood and IRT agree to pay a civil penalty of \$15,000. The parties 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. 87th & Greenwood, LLC (87th & Greenwood) must pay a civil penalty of \$7,500 and Innovative Recycling Technologies, Inc. (IRT) must pay a civil penalty of \$7,500 no later than July 18, 2011, which is the first business day following the 30th day after the date of this order. 87th & Greenwood and IRT 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 (EPTF). The case name, case number, and respondents' federal tax identification numbers must appear on the face of the certified check or money order.
3. 87th & Greenwood and IRT 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

87th & Greenwood and IRT must send a copy of the certified check or money order and any transmittal letter to:

Christopher Grant, AAG
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, #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. 87th & Greenwood and IRT 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 June 16, 2011, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board