

ILLINOIS POLLUTION CONTROL BOARD
December 1, 2011

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 12-52
) (Enforcement – Land)
RELIABLE MATERIALS LYONS, LLC, an)
Illinois limited liability company, GSG)
CONSULTANTS, INC., an Illinois)
corporation, O.C.A. CONSTRUCTION, INC.,)
an Illinois corporation, SPEEDY GONZALES)
LANDSCAPING, INC., an Illinois)
corporation, PUBLIC BUILDING)
COMMISSION OF CHICAGO, an Illinois)
municipal corporation, and BOARD OF)
EDUCATION OF THE CITY OF CHICAGO,)
a body politic and corporate,)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by T.A. Holbrook):

On September 26, 2011, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a four-count complaint against Reliable Materials Lyons, LLC (Reliable), GSG Consultants, Inc. (GSG), O.C.A. Construction, Inc. (OCA), Speedy Gonzales Landscaping, LLC (SGL), the Public Building Commission of Chicago (PBC), and the Board of Education of the City of Chicago (CPS) (collectively, respondents). The complaint concerns illegal dumping of waste taken from a 7.5 acre parcel of land located at 401 North Sawyer Avenue, Chicago, Cook County, owned by CPS, and disposed of at a clean construction and demolition debris (CCDD) facility located at 4401 First Avenue, Lyons, Cook County, owned by Reliable. Separately, the People and SGL, and the People and PBC and CPS now seek to settle without a hearing. None of the other respondents are parties to the proposed settlements. For the reasons below, the Board accepts the stipulation and proposed settlements between the People and SGL and between the People and PBC and CPS only.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2010)), 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 (2010); 35 Ill. Adm. Code 103.

In Count I of the complaint, the People allege that Reliable, GSG, SGL, PBC, and CPS violated Section 21(a) of the Act (415 ILCS 5/21(a) (2010)) by causing or allowing waste (contaminated soil and materials) to be deposited and to accumulate at the CCDD facility located

at 4401 First Avenue in Lyons, Cook County, which constituted an illegal open dumping of waste.

In Count II of the complaint, the People allege that SGL and CPS violated Section 808.121(a) of the Board's Waste Disposal Regulations (35 Ill. Adm. Code 808.121(a)) by failing to make a valid special waste determination of soil being hauled from the parcel located at 401 North Sawyer Avenue in Chicago. In addition, by delivering special waste without any manifests to transporters, the People allege that CPS and SGL violated Sections 808.121(b) and 809.301 of the Board Waste Disposal Regulations (35 Ill. Adm. Code 808.121(b) and 809.301) and thereby violated Section 21(d)(2) of the Act (415 ILCS 5/21(d)(2) (2010)).

In Count III of the complaint, the People allege that Reliable violated Section 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2010)) by conducting a waste disposal operation without a permit issued by the Illinois EPA.

In Count IV of the complaint, the People allege that Reliable violated Section 809.302(a) of the Board's Waste Disposal Regulations (35 Ill. Adm. Code 809.302(a)) by accepting waste for disposal without receiving any completed, signed manifests designating the CCDD facility as the destination for the waste, thereby violating Section 21 (d)(2) of the Act (415 ILCS 5/21(d)(2) (2010)).

On September 26, 2011, the People filed two stipulations and proposed settlements, the first between the People and SGL, and the second between PBC and CPS, accompanied by requests for relief from the hearing requirement of Section 31(c)(1) of the Act (415 ILCS 5/31(c)(1) (2010)). These filings are authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2010)), 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 stipulations, proposed settlements, and requests for relief. The newspaper notice was published in the *Chicago Sun-Times* on October 10, 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 CPS's, PBC's, and Reliable'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) (2010)), which bears on the reasonableness of the circumstances surrounding the alleged violations.

Under the stipulation and proposed settlement with SGL, SGL admits to the jurisdictional allegations and neither admits nor denies the factual allegations related to the violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2010)), which may mitigate or aggravate the civil penalty amount. SGL agrees to pay a civil penalty in the sum of ten thousand dollars (\$10,000.00). The People and SGL have satisfied Section 103.302. The Board accepts the stipulation and proposed settlement.

Under the stipulation and proposed settlement with PBC and CPS, PBC and CPS admit to the jurisdictional allegations and neither admit nor deny the factual allegations related to the violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2010)), which may mitigate or aggravate the civil penalty amount. PBC and CPS agree to jointly pay a civil penalty in the sum of seventeen thousand five hundred dollars (\$17,500.00). The People and PBC and CPS 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 stipulations and proposed settlements.
2. SGL must pay a civil penalty of \$10,000.00 no later than January 2, 2012, which is the first business day following the 30th day after the date of this order. PBC and CPS must jointly pay a civil penalty of \$17,500.00 no later than January 2, 2012, which is the first business day following the 30th day after the date of this order. SGL, PBC and CPS 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 the respondents' federal tax identification numbers must appear on the face of the certified check or money order.
3. Respondents 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

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

Stephen J. Sylvester
Environmental Bureau
Illinois Attorney General's Office
69 W. 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) (2010)) at the rate

set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2010)).

5. Respondents 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) (2010); *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.

Board Member J.A. Burke abstained.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 1, 2011 by a vote of 4-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board