

ILLINOIS POLLUTION CONTROL BOARD
August 9, 2012

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 GONZALEZ)
LANDSCAPING, INC., an Illinois)
corporation, PUBLIC BUILDING)
COMMISSION OF CHICAGO, an Illinois)
municipal corporation, 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 Gonzalez Landscaping, Inc. (SGL), Public Building Commission of Chicago, (PBC), and the Board of Education of the City of Chicago, (CPS), (collectively, respondents)¹. The complaint concerns the site of the construction of Westinghouse Vocational High School, a 7.5 acre parcel of land located at 401 North Sawyer Avenue, Chicago, Cook County. The People and O.C.A. seek to settle without a hearing. Reliable is not party to the stipulation and proposed settlement. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

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 this case, the People allege that OCA violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2010) by causing or allowing the depositing, dumping, and accumulation of waste in a manner

¹ On December 2, 2011, the Board accepted stipulations and settlements from PBC and CPS, as well as SGL. *See People v. Reliable Materials Lyons, LLC et. al*, PCB 12-52 (Dec. 2, 2011). On July 12, 2012, the Board accepted a stipulation and settlement from GSG. *See People v. Reliable Materials Lyons, LLC et. al*, PCB 12-52 (July 12, 2012).

that resulted in open dumping of waste at Reliable Materials Lyons, LLC.'s clean construction or demolition debris facility located at 4401 First Avenue, Lyons, Cook County.

On May 29, 2012, the People and OCA 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) (2010)). This filing is 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 stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Chicago Sun Times* on July 9, 2012. 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) (2010); 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 OCA'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. OCA does not affirmatively admit the alleged violation. 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. OCA agrees to pay a civil penalty of \$15,000.00. The People and OCA 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. OCA Construction, Inc. must pay a civil penalty of \$15,000.00 no later than September 10, 2012, which is the first business day following the 30th day after the date of this order. OCA 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 OCA's federal tax identification number must appear on the face of the certified check or money order.
3. OCA 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

OCA must send a copy of the 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. OCA 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.

Member Burke Abstained

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.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on August 9, 2012 by a vote of 4-0.



John T. Therriault, Assistant Clerk
Illinois Pollution Control Board