

US EPA ARCHIVE DOCUMENT

ILLINOIS POLLUTION CONTROL BOARD

January 6, 2011

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

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 Landfill). The complaint, which the Board accepted on September 16, 2010, concerns Clinton Landfill's sanitary landfill located near the City of Clinton in DeWitt County. The parties 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 Attorney may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *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 Landfill 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 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 Landfill 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 landfill gas management system in a manner resulting in malodors being detected beyond the property boundary.

According to count II of the complaint, Clinton Landfill 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 Landfill violated the terms and conditions of its permit, and thus Section 21(d)(1) of the Act (415 ILCS 5/21(d)(1) (2008)), by causing or allowing the emissions of offensive and malodorous landfill gas from Clinton Landfill so as to unreasonably interfere with the use and enjoyment of the neighbors' property, causing air pollution and an odor nuisance.

On September 9, 2010, the People and Clinton Landfill 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). In response to an October 21, 2010 Board order, the People filed a clarification on October 26, 2010.

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. The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Clinton Journal* on November 26, 2010. 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. 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 the respondents' 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)). The People and the respondent have satisfied Section 103.302. Clinton Landfill does not affirmatively admit the alleged violations but agrees to pay a civil penalty of \$10,000 and to perform a SEP with a settlement value of \$30,000, consisting of providing landfill disposal services to the People. 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 September 9, 2010 stipulation and proposed settlement, as clarified by the filing of October 26, 2010.
2. Clinton Landfill must each pay a civil penalty of \$10,000 by February 7, 2011, which is the first business day following the 30th day after the date of this order. The respondent must pay the civil penalties by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and respondent's federal employer identification number must be included on the certified check or money order.
3. The respondent must send the certified check or money order to:

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

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

Environmental Bureau
 Illinois Attorney General's Office
 500 South Second Street
 Springfield, Illinois 62706

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. Respondent also complete a supplemental environmental project (SEP) which consists of provision of \$30,000 in waste disposal services as specified in subsection (e) of the stipulation at pages 7-9.
6. The respondent must cease and desist from the violations.

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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on January 6, 2011, by a vote of 5-0.



John Therriault, Clerk
 Illinois Pollution Control Board