

ILLINOIS POLLUTION CONTROL BOARD  
November 4, 2010

PEOPLE OF THE STATE OF ILLINOIS, )  
)  
Complainant, )  
)  
v. ) PCB 11-14  
) (Enforcement - Land)  
WASTE MANAGEMENT OF ILLINOIS, )  
INC. d/b/a COTTONWOOD HILLS )  
LANDFILL, )  
)  
Respondent. )

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

On September 24, 2010, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a six-count complaint against Waste Management of Illinois, Inc., doing business as Cottonwood Hills Landfill (WMII). The complaint, which the Board accepted on October 7, 2010, concerns WMII's municipal solid waste landfill located at 10400 Hillstown Road in Marissa, St. Clair 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 the Clerk to provide public notice of the parties' stipulation, proposed settlement, and request for relief from the hearing requirement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), the Attorney General and the State's Attorneys 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 that WMII violated Sections 21(d)(1), 21(e), and 21(o)(12) of the Act (415 ILCS 5/21(d)(1), 21(e), 21(o)(12) (2008)) and condition II.2(l) of WMII's operating permit by failing to collect and contain litter from the site by the end of each operating day (count I). The People also allege that WMII violated Sections 21(d)(1), 21(d)(2), 21(e), and 21(o)(5) of the Act (415 ILCS 5/21(d)(1), 21(d)(2), 21(e), 21(o)(5) (2008)), Section 811.313 of the Board's waste disposal regulations (35 Ill. Adm. Code 811.313), and conditions II.2(e) and II.7 of WMII's operating permit by failing to properly cover refuse (count II). In count III, the People allege that WMII violated Sections 21(d)(1), 21(e), 22.22(c), and 55(b)(1) of the Act (415 ILCS 5/21(d)(1), 21(e), 22.22(c), 55(b)(1) (2008)) and conditions II.10(a) and II.10(d) of WMII's operating permit by accepting landscape waste and used or waste tires for final disposal at the facility. Additionally, the People allege that WMII violated Sections 21(d)(2) and 21(e) of the Act (415 ILCS 5/21(d)(2), 21(e) (2008)) and Section 745.181(b)(2) of the Board's waste disposal regulations (35 Ill. Adm. Code 745.181(b)(2)) by designating a Chief Operator who serves in that capacity at two or more waste disposal sites (count IV). The People also allege that WMII violated Sections 21(d)(1), 21(d)(2), and 21(e) of the Act (415 ILCS 5/21(d)(1), 21(d)(2), 21(e) (2008)), Section 811.318(d)(6) of the Board's waste disposal regulations (35 Ill. Adm. Code 811.318(d)(6)), and condition VIII.5 of WMII's operating permit

by failing to keep groundwater monitoring wells covered with vented caps and equipped with devices to protect against tampering and damage (count V). Finally, count VI of the People's complaint alleges that WMII violated Sections 21(d)(1), 21(d)(2), and 21(e) of the Act (415 ILCS 5/21(d)(1), 21(d)(2), 21(e) (2008)), Section 811.323(c) of the Board's waste disposal regulations (35 Ill. Adm. Code 811.323(c)), and condition II.8 of WMII's operating permit by failing to properly record information and observations derived from random inspections.

As noted above, also on September 24, 2010, the People and WMII 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, WMII admits to the alleged violations and agrees to undertake a supplemental environmental project (SEP) with a settlement value of \$12,000, consisting of providing landfill disposal space 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, however, the Board found in an October 7, 2010 order that there was an inconsistency between the complaint and the stipulation. Specifically, the statement of alleged violations in the stipulation failed to include count VI of the complaint. In accord with precedent, the Board directed that the parties reconcile the inconsistency. *See, e.g., People v. Swinson*, PCB 10-08, slip op. at 2 (June 17, 2010); *People v. Village of Rockton*, PCB 09-104, slip op. at 1-2 (Nov. 19, 2009).

In response, the People filed a motion to "clarify the applicability" of the stipulation (Mot.). Mot. at 1. The People concede that the "summary of alleged violations" in the stipulation "inadvertently omitted the permit violations alleged in count VI of the complaint." *Id.* The People assert, however, that two general provisions elsewhere in the stipulation indicate that all of the complaint's alleged violations are within the scope of the stipulation. *Id.* at 2. The People suggest that the "summary of alleged violations" is not required and conclude by representing that "Count VI is included in the settlement." *Id.*

The Board grants the People's motion to clarify and therefore finds that count VI is part of the stipulation. The Board notes that the inclusion of a particular alleged violation might be significant to a citizen who is reading a proposed settlement and considering whether to demand a hearing. *See* 415 ILCS 5/31(c)(2) (2008); 35 Ill. Adm. Code 103.302.

The Board directs the Clerk to provide notice of the stipulation and proposed settlement, so clarified, as well as the 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 will deny the parties' request for relief and hold a hearing.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on November 4, 2010, by a vote of 5-0.

A handwritten signature in black ink that reads "John T. Therriault". The signature is written in a cursive style with a long horizontal stroke at the end.

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John Therriault, Assistant Clerk  
Illinois Pollution Control Board