

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).

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 WMII'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. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2008)), which may mitigate or aggravate a civil penalty amount.

The Board's October 7, 2010 order directed the parties to reconcile an inconsistency between the complaint and the stipulation. By order of November 4, 2010, the Board granted the People's October 26, 2010 motion to clarify that count VI is part of the stipulation. The November 4, 2010 order then directed the Clerk to provide notice of the stipulation and proposed settlement, so clarified, as well as the request for relief from the hearing requirement. The Clerk has since provided the notice. The newspaper notice was published in the *Belleville News-Democrat* on November 17, 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).

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. The People and WMII have satisfied Section 103.302 of the Board's procedural rules. 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, including the SEP described in the above opinion.
2. All reports, receipts, and other documentation required by the stipulation must be sent by first class mail and delivered to:

Paul M. Purseglove, Manager
Illinois EPA Field Operations Section
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

The case name and case number must appear on all document submissions. A copy of all submissions and any transmittal letters must be sent to:

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

3. WMII 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, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 16, 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 flourish at the end.

John Therriault, Clerk
Illinois Pollution Control Board