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MAY 21 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
by LISA MADIGAN, Attorney General)
of the State of Illinois,)
)
Complainant,)
)
v.)
)
MEDICAL WASTE SOLUTIONS, INC.,)
an Illinois Corporation,)
)
Respondent.)

PCB No. 04-206
(Enforcement - Potentially
Infectious Medical Wastes)

NOTICE OF FILING

TO: Larry L. Thompson
James, Gustafson and Thompson, Ltd.
1001 East Chicago Avenue
Suite 103
Naperville, IL 60540

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the (1) Complaint, (2) Stipulation and Proposal for Settlement, and (3) Request for Relief from Hearing Requirement, true and correct copies of which are attached hereto and herewith served upon you.

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General
of the State of Illinois

BY:

Michael C. ParTEE

MICHAEL C. PARTEE
Assistant Attorney General
Environmental Bureau/North
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601
Tel: (312)814-2069

CERTIFICATE OF SERVICE

It is hereby certified that true and correct copies of (1) Complaint, (2) Stipulation and Proposal for Settlement, and (3) Request for Relief from Hearing Requirement were mailed, first class postage prepaid, to the person listed on the Notice of Filing on May 21, 2004.

BY:

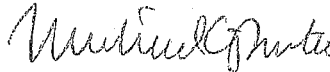


MICHAEL C. PARTEE

It is hereby certified that the originals plus nine (9) copies of the foregoing were hand-delivered to the following person on May 21, 2004:

Pollution Control Board, Attn: Clerk
James R. Thompson Center
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

BY:



MICHAEL C. PARTEE

MAY 21 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
 by LISA MADIGAN, Attorney General)
 of the State of Illinois,)
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 Complainant,)
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 v.)
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 MEDICAL WASTE SOLUTIONS, INC.,)
 an Illinois Corporation,)
)
 Respondent.)

PCB No. 04-206
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 Infectious Medical Wastes)

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion, complains of Respondent, MEDICAL WASTE SOLUTIONS, INC., an Illinois corporation, as follows:

COUNT I

HAULING PIMW IN AN UNAUTHORIZED VEHICLE

1. This Count is brought on behalf of the People of the State of Illinois, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2004).

2. At all times relevant to the Complaint, Respondent MEDICAL WASTE SOLUTIONS, INC., was and is a corporation incorporated in the State of Illinois.

3. At all times relevant to the Complaint, Respondent operated a potentially infectious medical waste ("PIMW") collection and hauling service.

4. At all times relevant to the Complaint, Respondent was permitted by the Illinois Environmental Protection Agency to collect and haul PIMW under PIMW Permit #M9035.

5. On at least January 9, 2003, Respondent used a rented vehicle to collect PIMW that was generated in human patient care for hauling from a medical facility located at or about 450 West Illinois Route 22, Barrington, Lake County, Illinois.

6. On at least January 9, 2003, Respondent's rented vehicle was not enumerated in the application for PIMW Permit #M9035.

7. On at least January 9, 2003, after PIMW was placed in the compartment of Respondent's rented vehicle, the compartment doors were left open while the vehicle was unattended.

8. On at least January 9, 2003, Respondent's rented vehicle did not display any PIMW decal or the words "Permitted Medical Waste Hauler" and permit number "M9035."

9. On at least January 9, 2003, Respondent did not keep an emergency response plan in its rented vehicle.

10. Respondent is subject to the Act, the PIMW Regulations promulgated by the Illinois Pollution Control Board ("Board"), and the terms and conditions of PIMW Permit #M9035.

11. Section 56 of the Act, 415 ILCS 5/56 (2004), provides, in relevant part, as follows:

(a) The General Assembly finds:

- (1) that potentially infectious medical waste, if not handled properly, may constitute an environmental or public health problem.
- (2) that potentially infectious medical waste, if not handled properly, may present a health

risk to handlers of the waste at the facility where the waste is generated, during transportation of the waste, and at the facility receiving the waste.

- (b) It is the purpose of this Title to reduce the potential environmental and public health risks associated with potentially infectious medical waste by establishing statutory and regulatory requirements to ensure that such waste will be handled in a safe and responsible manner

12. Section 56.1 of the Act, 415 ILCS 5/56.1 (2004), provides, in relevant part, as follows:

Acts prohibited.

- (A) No person shall:

* * *

- (b) Cause or allow the delivery of any potentially infectious medical waste for transport, storage or treatment, or transfer except in accordance with the Board regulations.

* * *

- (f) Beginning July 1, 1992, conduct any potentially infectious medical waste transportation operation:

* * *

- (2) In violation of any condition of any permit issued by the Agency under this Act.

- (3) In violation of any regulation adopted by the Board

13. Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), provides the following definition:

"PERSON" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

14. Respondent, a corporation, is a "person" as that term is defined in Section 3.315 of the Act.

15. Section 3.360 of the Act, 415 ILCS 5/3.360 (2004), provides, in relevant part, the following definition:

Potentially infectious medical waste.

(a) "Potentially infectious medical waste" means the following types of waste generated in connection with the diagnosis, treatment (*i.e.*, provision of medical services), or immunization of human beings or animals; research pertaining to the provision of medical services; or the production or testing of biologicals:

- (1) Cultures and stocks. This waste shall include but not be limited to cultures and stocks of agents infectious to humans, and associated biologicals; cultures from medical or pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live or attenuated vaccines; or culture dishes and devices used to transfer, inoculate, or mix cultures.
- (2) Human pathological wastes. This waste shall include tissue, organs, and body parts (except teeth and the contiguous structures of bone and gum); body fluids that are removed during surgery, autopsy, or other medical procedures; or specimens of body fluids and their containers.
- (3) Human blood and blood products. This waste shall include discarded human blood, blood components (*e.g.*, serum and plasma), or saturated material containing free flowing blood or blood components.
- (4) Used sharps. This waste shall include but not be limited to discarded sharps used in animal or human patient care, medical research, or clinical or pharmaceutical laboratories; hypodermic, intravenous, or other medical needles; hypodermic or intravenous syringes; Pasteur pipettes; scalpel blades; or blood vials. This waste shall also include but not

be limited to other types of broken or unbroken glass (including slides and cover slips) in contact with infectious agents.

* * *

- (6) Isolation waste. This waste shall include discarded materials contaminated with blood, excretions, exudates, and secretions from humans that are isolated to protect others from highly communicable diseases. "Highly communicable diseases" means those diseases identified by the Board in rules adopted under subsection (e) of Section 56.2 of this Act.
- (7) Unused sharps. This waste shall include but not be limited to the following unused, discarded sharps: hypodermic, intravenous, or other needles; hypodermic or intravenous syringes; or scalpel blades

16. The PIMW generated in human patient care that was collected for hauling by Respondent on at least January 9, 2003, from a location at or about 450 West Illinois Route 22, Barrington, Lake County, Illinois, was "potentially infectious medical waste" as defined in Section 3.360 of the Act.

17. Standard Condition #2 of PIMW Permit #M9035 provides as follows:

All PIMW hauling covered by this permit shall be conducted in strict compliance with the Act, and rules and regulations by the Board or Illinois EPA.

18. Standard Condition #3 of PIMW Permit #M9035 provides as follows:

There shall be no deviation from the approved permit and all conditions thereof, and no PIMW hauling shall be conducted in any vehicles not enumerated in the application for permit.

19. By collecting PIMW for hauling on at least January 9, 2003, in a rented vehicle that was not enumerated in the

application for PIMW Permit #M9035, Respondent violated Standard Conditions #2 and #3 of PIMW Permit #M9035.

20. By violating Standard Conditions #2 and #3 of PIMW Permit #M9035, Respondent also violated Section 56.1(A)(f) of the Act.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board enter an order in favor of Complainant and against Respondent, MEDICAL WASTE SOLUTIONS, INC., on Count I:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated the Act and regulations alleged herein;

COUNT II

FAILURE TO SECURE AN UNATTENDED PIMW HAULING VEHICLE
AGAINST PUBLIC ACCESS

1-18. Complainant realleges and incorporates by reference herein paragraphs 1 through 18 of Count I as paragraphs 1 through 18 of this Count II.

19. Section 1421.141(b) of the Board's PIMW Regulations, 35 Ill. Adm. Code 1421.141(b), provides, in relevant part, as follows:
Standards and Criteria.

* * *

(b) Packages of PIMW must be transported only in enclosed compartments of vehicles that are secured against public access when unattended

20. Standard Condition #17 of PIMW Permit #M9035 provides as follows:

All vehicles hauling PIMW must be enclosed and secure against public access when unattended

21. By leaving the PIMW-containing compartment open while its rented vehicle was unattended on at least January 9, 2003, Respondent violated Section 1421.141(b) of the Board's PIMW Regulations

22. By leaving the PIMW-containing compartment open while its rented vehicle was unattended on at least January 9, 2003, Respondent violated Standard Condition #17 of PIMW Permit #M9035 and, thereby, violated Standard Conditions #2 and #3 of PIMW Permit #M9035.

23. By violating Section 1421.141(b) of the Board's PIMW Regulations and Standard Conditions #2, #3 and #17 of PIMW Permit

#M9035, Respondent also violated Sections 56.1(A)(b) and (A)(f) of the Act.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board enter an order in favor of Complainant and against Respondent, MEDICAL WASTE SOLUTIONS, INC., on Count II:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated the Act and regulations alleged herein;
3. Ordering Respondent to cease and desist from further violations of the Act and regulations;
4. Assessing a civil penalty against Respondent in the amount of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which each violation continues.
5. Ordering Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f), to pay Complainant's attorney fees and costs expended in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT III

FAILURE TO DISPLAY REQUIRED INFORMATION
ON PIMW HAULING VEHICLE

1-18. Complainant realleges and incorporates by reference herein paragraphs 1 through 18 of Count I as paragraphs 1 through

18 of this Count III.

19. Section 1421.141(g) of the Board's PIMW Regulations, 35 Ill. Adm. Code 1421.141(g), provides as follows:

Standards and Criteria.

* * *

(g) Vehicles transporting PIMW must display information in accordance with the PIMW hauling permit.

20. PIMW Permit #M9035 included PIMW decals that were to be placed on both sides of the permitted vehicle below the words "Permitted Medical Waste Hauler" and permit number "M9035" as indicated on page two of the permit application instructions and all such wording was to be printed in two-inch high block letters.

21. By failing to display a PIMW decal or the words "Permitted Medical Waste Hauler" and permit number "M9035" on the rented vehicle used to collect PIMW for hauling on at least January 9, 2003, Respondent violated Section 1421.141(g) of the Board's PIMW Regulations.

22. By failing to display a PIMW decal or the words "Permitted Medical Waste Hauler" and permit number "M9035" on the rented vehicle used to collect PIMW for hauling on at least January 9, 2003, Respondent violated Standard Conditions #2 and #3 of PIMW Permit #M9035.

23. By violating Section 1421.141(g) of the Board's PIMW Regulations and Standard Conditions #2 and #3 of PIMW Permit #M9035, Respondent also violated Sections 56.1(A)(b) and (A)(f) of the Act.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board enter an order in favor of Complainant and against Respondent, MEDICAL WASTE SOLUTIONS, INC., on Count III:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated the Act and regulations alleged herein;
3. Ordering Respondent to cease and desist from further violations of the Act and regulations;
4. Assessing a civil penalty against Respondent in the amount of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which each violation continues.
5. Ordering Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f), to pay Complainant's attorney fees and costs expended in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT IV

FAILURE TO KEEP EMERGENCY RESPONSE PLAN
IN PIMW HAULING VEHICLE

1-18. Complainant realleges and incorporates by reference herein paragraphs 1 through 18 of Count I as paragraphs 1 through 18 of this Count IV.

19. Section 1421.141(h) of the Board's PIMW Regulations, 35

Ill. Adm. Code 1421.141(h), provides as follows:

Standards and Criteria.

* * *

(h) The transporter shall develop and keep an emergency response plan in the vehicle. This plan must identify the names and telephone numbers of State and local authorities who must be contacted in the event of an emergency or discharge. In the event of an emergency or discharge of PIMW, the transporter shall take immediate action in accordance with the emergency response plan to protect the health and safety of the public and the environment. In addition, each vehicle transporting PIMW must carry all equipment necessary to provide a response.

20. Standard Condition #19 of PIMW Permit #M9035 provides as follows:

The Permittee(s) shall develop and keep an emergency response plan in the vehicle. This plan shall identify the names and telephone numbers of state and local authorities that shall be contacted in the event of an emergency. In the event of any discharge of PIMW, the transporter shall take immediate action in accordance with the emergency response plan to protect the health and safety of the public and the environment. In addition, the vehicle transporting PIMW shall carry all equipment necessary to provide an initial response in the event of an emergency or discharge.

21. By failing to keep an emergency response plan in its rented vehicle on at least January 9, 2003, Respondent violated Section 1421.141(h) of the Board's PIMW Regulations.

22. By failing to keep an emergency response plan in its rented vehicle on at least January 9, 2003, Respondent violated Standard Condition #19 of PIMW Permit #M9035 and, thereby, violated Standard Conditions #2 and #3 of PIMW Permit #M9035.

23. By violating Section 1421.141(h) of the Board's PIMW Regulations and Standard Conditions #2, #3 and #19 of PIMW Permit #M9035, Respondent also violated Sections 56.1(A)(b) and (A)(f) of the Act.


WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Illinois Pollution Control Board enter an order in favor of Complainant and against Respondent, MEDICAL WASTE SOLUTIONS, INC., on Count IV:

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent violated the Act and regulations alleged herein;
3. Ordering Respondent to cease and desist from further violations of the Act and regulations;
4. Assessing a civil penalty against Respondent in the amount of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act and regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day during which each violation continues.
5. Ordering Respondent pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f), to pay Complainant's attorney fees and costs expended in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement and
Asbestos Litigation Division

BY:


ROSEMARIE MAZZEAU, Chief
Assistant Attorney General
Environmental Bureau/North

OF COUNSEL:

MICHAEL C. PARTEE
Assistant Attorney General
Environmental Bureau/North
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601
Tel: (312)814-2069

MAY 21 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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PEOPLE OF THE STATE OF ILLINOIS,)
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 MEDICAL WASTE SOLUTIONS, INC.,)
 an Illinois Corporation,)
)
 Respondent.)

PCB No. 04-206
 (Enforcement - Potentially
 Infectious Medical Wastes)

STIPULATION AND PROPOSAL FOR SETTLEMENT

The Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), and the Respondent, MEDICAL WASTE SOLUTIONS, INC. ("MWSI"), an Illinois corporation, pursuant to 35 Ill. Adm. Code 103.302, do hereby agree to this Stipulation and Proposal for Settlement ("Agreement") and submit it to the Illinois Pollution Control Board ("Board") for acceptance. The parties stipulate that the statement of facts contained herein represents a fair summary of the evidence and testimony that would be introduced by the parties if a hearing were held. The parties further stipulate that the facts stated herein are made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Agreement nor any of the facts stipulated herein shall be used for any purpose in this or any other proceeding, except to enforce the terms hereof by the parties to this Agreement, and as otherwise provided herein. If the Board accepts and enters this Agreement, the parties agree to be bound by it and not to contest its validity

in any subsequent proceeding to implement or enforce its terms, except for purposes of interpretation as provided for under Section VI (Applicability) herein.

I.

JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1, et seq. (2004).

II.

AUTHORIZATION

The undersigned representatives for each party certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Agreement and to legally bind them to it. This Agreement may be signed in counterparts, all of which shall be considered one Agreement.

III.

STATEMENT OF FACTS

A. Parties

1. Simultaneous to the filing of this Agreement, a Complaint was filed on behalf of the People of the State of Illinois, by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois

EPA against MWSI pursuant to Section 31 of the Act, 415 ILCS 5/31 (2004).

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2004).

3. At all times relevant to the Complaint, MWSI, an Illinois corporation authorized to transact business in the State of Illinois, was and is the operator of a potentially infectious medical waste ("PIMW") collection and hauling service.

B. Collection of PIMW by MWSI on January 9, 2003

1. At all times relevant to the Complaint, the Respondent was permitted by the Illinois EPA to collect and haul PIMW under PIMW Permit #M9035, which provides in relevant part as follows:

a. Standard Condition #2 provides that "[a]ll PIMW hauling covered by this permit shall be conducted in strict compliance with the Act, and rules and regulations by the Board or Illinois EPA."

b. Standard Condition #3 provides that "[t]here shall be no deviation from the approved permit and all conditions thereof, and no PIMW hauling shall be conducted in any vehicles not enumerated in the application for permit."

c. Standard Condition #17 provides that "[a]ll vehicles hauling PIMW must be enclosed and secure against public access when unattended"

d. Standard Condition #19 provides as follows:

The Permittee(s) shall develop and keep an emergency response plan in the vehicle. This plan shall identify

the names and telephone numbers of state and local authorities that shall be contacted in the event of an emergency. In the event of any discharge of PIMW, the transporter shall take immediate action in accordance with the emergency response plan to protect the health and safety of the public and the environment. In addition, the vehicle transporting PIMW shall carry all equipment necessary to provide an initial response in the event of an emergency or discharge.

e. PIMW Permit #M9035 also included PIMW decals that were to be placed on both sides of the permitted vehicle below the words "Permitted Medical Waste Hauler" and permit number "M9035" as indicated on page two of the permit application instructions and all such wording was to be printed in two-inch high block letters.

2. On January 9, 2003, the Respondent used a rented vehicle to collect PIMW that was generated in human patient care for hauling from a medical facility located at or about 450 West Illinois Route 22, Barrington, Lake County, Illinois.

3. On January 9, 2003, the Respondent's rented vehicle was not enumerated in the application for PIMW Permit #M9035.

4. On January 9, 2003, after PIMW was placed in the compartment of the Respondent's rented vehicle, the compartment doors were left open while the vehicle was unattended.

5. On January 9, 2003, the Respondent's rented vehicle did not display any PIMW decal or the words "Permitted Medical Waste Hauler" and permit number "M9035."

6. Lastly, on January 9, 2003, the Respondent did not keep an emergency response plan in its rented vehicle.

C. Allegations of Non-Compliance

The Complainant alleges that the Respondent violated the following provisions of the Act, Board's PIMW Regulations and PIMW Permit #M9035:

Count I: Hauling PIMW in an unauthorized vehicle in violation of 415 ILCS 5/56.1(A)(f) (2004) and Standard Conditions #2 and #3 of PIMW Permit #M9035;

Count II: Failure to secure an unattended PIMW hauling vehicle against public access in violation of 415 ILCS 5/56.1(A)(b) and (A)(f) (2004), 35 Ill. Adm. Code 1421.141(b), and Standard Conditions #2, #3 and #17 of PIMW Permit #M9035;

Count III: Failure to display required information on PIMW hauling vehicle in violation of 415 ILCS 5/56.1(A)(b) and (A)(f) (2004), 35 Ill. Adm. Code 1421.141(g), and Standard Conditions #2 and #3 of PIMW Permit #M9035; and

Count IV: Failure to keep emergency response plan in PIMW hauling vehicle in violation of 415 ILCS 5/56.1(A)(b) and (A)(f) (2004), 35 Ill. Adm. Code 1421.141(h), and Standard Conditions #2, #3 and #19 of PIMW Permit #M9035.

D. Non-Admission of Alleged Violations

The Respondent does not admit to violations alleged in the Complaint filed in this case and referenced herein.

IV.

APPLICABILITY

This Agreement shall apply to and be binding upon the Complainant and the Respondent, and any officer, director, agent, or employee of the Respondent, as well as any successors or assigns of the Respondent. The Respondent shall not raise as a defense to

any enforcement action taken to enforce this Agreement the failure of any of its officers, directors, agents or employees to take such action as shall be required to comply with the provisions of this Agreement.

V.

COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Agreement in no way affects the Respondent's responsibility to comply with any other federal, state or local laws or regulations, including, but not limited to, the Act, the regulations promulgated thereunder and PIMW Permit #M9035.

VI.

FORUM

The parties agree that the forum of any action commenced for the purposes of interpretation and enforcement of the terms and conditions of this Agreement shall be the Circuit Court of Cook County, Illinois.

VII.

SEVERABILITY

It is the intent of the parties that the provisions of this Agreement shall be severable, and should any provision be declared by a court of competent jurisdiction to be inconsistent with state or federal law, and therefore unenforceable, the remaining provisions shall remain in full force and effect.

VIII.

FACTS AND CIRCUMSTANCES BEARING UPON THE
REASONABLENESS OF THE ALLEGED VIOLATIONS

1. Section 33(c) of the Act, 415 ILCS 5/33(c) (2004), provides as follows:

(c) In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges or deposits involved including, but not limited to:

(i) the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;

(ii) the social and economic value of the pollution source;

(iii) the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;

(iv) the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and

(v) any subsequent compliance.

2. Section 103.302 of the Board regulations, 35 Ill. Adm. Code 103.302, further provides that a written statement addressing the facts and circumstances listed in Section 33(c) of the Act must be contained in all Stipulations and Proposals for Settlement to the Board.

3. In response to the factors set forth in Section 33(c) of the Act, the parties state as follows:

a. This case involved the improper hauling of PIMW.

The parties stipulate that, if not hauled properly, PIMW may

constitute an environmental or public health problem, and also may present a health risk to handlers of the waste during transportation of the waste. However, in the present case, the parties are not aware of actual injury to the environment or public health as a result of the alleged violations.

b. The parties stipulate that the collection and hauling of PIMW, when done in accordance with the Act, Board's PIMW Regulations and applicable PIMW Permit, has social and economic value.

c. The medical facility at which the subject PIMW was generated is suitable for the area in which it is located.

d. The parties stipulate that safe and responsible hauling of PIMW is technically practical and economically reasonable.

e. Subsequent to the time frame of the alleged violations, the Respondent has acted in compliance with the Act, Board's PIMW Regulations and PIMW Permit #M9035.

IX.

CONSIDERATION OF THE SECTION 42(h) FACTORS

1. Section 42(h) of the Act, 415 ILCS 5/42(h) (2004), provides as follows:

Civil penalties.

* * *

(h) In determining the appropriate civil penalty to be imposed under subdivisions (a), (b)(1), (b)(2), (b)(3), or (b)(5) of this Section, the Board is authorized to consider any matters of record in mitigation or

aggravation of penalty, including but not limited to the following factors:

(1) the duration and gravity of the violation;

(2) the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;

(3) any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by lowest cost alternative for achieving compliance;

(4) the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act; and

(5) the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;

(6) whether the respondent voluntarily self-disclosed, in accordance with subsection (i) of this Section, the non-compliance to the Agency; and

(7) whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally obligated to perform.

2. In response to the above factors set forth in Section 42(h) of the Act, the parties state as follows:

a. The Complainant states that the duration of the alleged violations was one day, which is low. The Complainant contends that the gravity of the violations was high because disease can be transmitted among humans through the improper collection and hauling of PIMW. The Complainant contends that

approximately half of the \$13,000 civil penalty against the Respondent is gravity-based.

b. Following the time frame of the alleged violations, the Respondent exhibited due diligence by remedying the alleged violations on the same day that they were observed, and exhibited due diligence in its methods of operation thereafter by complying with the requirements of the Act, regulations promulgated thereunder and PIMW Permit #M9035.

c. Following the initiation of this enforcement action, the Respondent contends that it spent approximately \$33,000 to purchase and permit an additional PIMW hauling vehicle, worked with OSHA to conduct a mock survey evaluating its procedures, and sponsored a seminar with U.S. DOT and its customers on the proper packaging of medical waste to ensure future compliance with the Act, regulations promulgated thereunder and PIMW Permit #M9035. The parties stipulate that the purchase and permitting of an additional PIMW hauling vehicle and mock survey and seminar negated any economic benefit accrued by the Respondent because of a delay in compliance with requirements.

d. The Complainant contends that the civil penalty to be paid by the Respondent will serve to deter any future violations of the Act, regulations promulgated thereunder and PIMW Permit #M9035, and will enhance voluntary compliance with federal and state environmental laws. The Complainant further

contends that approximately half of the \$13,000 civil penalty against the Respondent is deterrence-based.

e. The Complainant is not aware of any previously adjudicated violations of the Act by the Respondent.

f. The parties stipulate that the respondent did not voluntarily self-disclose, in accordance with Section 42(i) of the Act, the alleged violations to the Illinois EPA.

g. Respondent has not agreed to undertake a supplemental environmental project in settlement.

X.

TERMS OF SETTLEMENT

A. Penalty

1. The Respondent shall pay a civil penalty of Thirteen Thousand Dollars (\$13,000.00) within 14 calendar days after the date upon which the Board issues a final order accepting this Agreement.

2. The Respondent's civil penalty payment shall be made by check or money order, payable to the Illinois EPA for deposit in the Environmental Protection Trust Fund ("EPTF") and shall be sent by first class mail and delivered to:

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

3. The name, case number, and the Respondent's Federal Employer Identification Number ("FEIN"), 36-4253867, shall appear

on the face of the check or money order. A copy of the check or money order and the transmittal letter shall be sent to:

Michael C. Partee (or other designee)
Assistant Attorney General
Environmental Bureau/North
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601

4. For purposes of payment and collection, the Respondent may be reached at the following address:

Russell A. Karlins
Medical Waste Solutions, Inc.
P.O. Box 64787
Gary, Indiana 46401

5. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees, as determined by the Circuit Court.

B. Interest on Penalties

1. As required by Section 42(g) of the Act, 415 ILCS 5/42(g) (2004), interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein, at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003(a) (2004).

2. Interest on any unpaid penalty shall begin to accrue from the date the penalty is due and continue to accrue to the date payment is received by the Illinois EPA.

3. Where partial payment is made on the penalty amount that is due, such partial payment shall be first applied to any interest on the unpaid penalty then owing.

4. All interest on the penalty owed the Complainant shall be paid by check or money order payable to the Illinois EPA for

deposit in the EPTF at the above-indicated address. The name, case number, and the Respondent's FEIN shall appear on the face of the check or money order. A copy of the check or money order and the transmittal letter shall be sent to:

Michael C. Partee (or other designee)
Assistant Attorney General
Environmental Bureau/North
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601

C. Future Use

Notwithstanding any other language in this Agreement, this Agreement may be used against the Respondent, for purposes of Section 39(i) and/or 42(h) of the Act, 415 ILCS 5/39(i) and/or 5/42(h) (2004), in any subsequent enforcement action or permit proceeding as evidence of a past adjudication of violation of the Act and the regulations promulgated thereunder.

D. Cease and Desist

The Respondent shall comply with the Act, regulations promulgated thereunder and PIMW Permit #M9035, including but not limited to those sections of the Act, regulations promulgated thereunder and PIMW Permit #M9035 that were the subject matter of the Complaint as outlined in Section III.C of this Agreement.

E. Release from Liability

1. In consideration of the Respondent's payment of a \$13,000.00 penalty and any accrued interest thereon, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for alleged violations of the Act, Board's PIMW Regulations and PIMW Permit #M9035 that were the

subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in the Complainant's Complaint filed simultaneous with this Agreement. The Complainant reserves, and this Agreement is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- e. liability or claims based on the Respondent's failure to satisfy the requirements of this Agreement.

2. Nothing in this Agreement is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois or the Illinois EPA may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), or entity which is not bound by this Agreement, as provided in Section IV (Applicability) of this Agreement.

F. Enforcement of Agreement

1. Upon the acceptance of this Agreement by the Board, any party hereto, upon motion, may reinstate these proceedings solely for the purpose of enforcing the terms and conditions of this

Agreement. This Agreement is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

2. The Respondent agrees that notice of any subsequent proceeding to enforce this Agreement may be made by mail and waives any requirement of service of process.

WHEREFORE, the parties, by their representatives, enter into this Agreement and submit it to the Board that it may be accepted and entered.

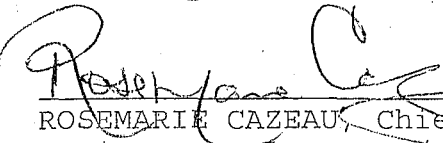
AGREED:

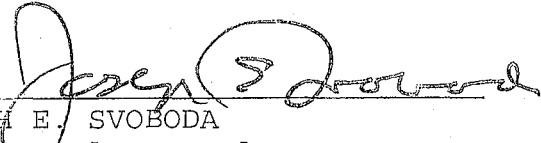
FOR THE COMPLAINANT:

PEOPLE OF THE STATE OF ILLINOIS
by LISA MADIGAN, Attorney General
of the State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/
Asbestos Litigation Division

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau/North
Assistant Attorney General

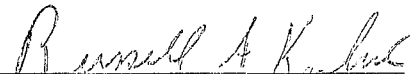
BY: 
JOSEPH E. SVOBODA
Chief Legal Counsel

DATE: 4/15/04

DATE: 4-12-04

FOR THE RESPONDENT:

MEDICAL WASTE SOLUTIONS, INC.

BY: 

ITS: President

DATE: 5-10-04

PEOPLE OF THE STATE OF ILLINOIS,)
by LISA MADIGAN Attorney General)
of the State of Illinois,)

Complainant,)

v.)

MEDICAL WASTE SOLUTIONS, INC.,)
an Illinois Corporation,)

Respondent.)

PCB No. 04-206
(Enforcement - Potentially
Infectious Medical Wastes)

MOTION TO REQUEST RELIEF FROM HEARING REQUIREMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and requests relief from the hearing requirement in this case pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2002), and Section 103.300 of the Illinois Pollution Control Board ("Board") Procedural Rules, 35 Ill. Adm. Code 103.300. In support of its Motion, the Complainant states as follows:

1. Section 31(c)(2) of the Act allows the parties in certain enforcement cases to request relief from the mandatory hearing requirement where the parties submit to the Board a Stipulation and Proposal for Settlement. Section 31(c)(2) provides as follows:

Notice; complaint; hearing.

* * *

(c)(2) Notwithstanding the provisions of subdivision (1) of this subsection (c), whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a stipulation and proposal for settlement accompanied by a

request for relief from the requirement of a hearing pursuant to subdivision (1). Unless the Board, in its discretion, concludes that a hearing will be held, the Board shall cause notice of the stipulation, proposal and request for relief to be published and sent in the same manner as is required for hearing pursuant to subdivision (1) of this subsection. The notice shall include a statement that any person may file a written demand for hearing within 21 days after receiving the notice. If any person files a timely written demand for hearing, the Board shall deny the request for relief from a hearing and shall hold a hearing in accordance with the provisions of subdivision (1).

2. Board Procedural Rule 103.300 provides, in relevant part, as follows (emphasis in original):

Request for Relief from Hearing Requirement in State Enforcement Proceeding.

(a) Whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a proposed stipulation and settlement accompanied by a request for relief from

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
by LISA MADIGAN, Attorney General
of the State of Illinois

BY:



MICHAEL C. PARTEE
Assistant Attorney General
Environmental Bureau/North
188 West Randolph Street, Suite 2001
Chicago, Illinois 60601
Tel: (312)814-2069