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CLERK'S OFFICE

JUN 09 2004

STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

June 4, 2004

The Honorable Dorothy Gunn  
Illinois Pollution Control Board  
James R. Thompson Center, Ste. 11-500  
100 West Randolph  
Chicago, Illinois 60601

Re: ***People v. Whiteway Sanitation, Inc.***  
**PCB No. 04-140**

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT in regard to the above-captioned matter. Please file the originals and return file-stamped copies of the documents to our office in the enclosed self-addressed, stamped envelope.

Thank you for your cooperation and consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Javonna Homan", is written over the typed name.

Javonna Homan  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

JH/pp  
Enclosures

**RECEIVED**  
CLERK'S OFFICE

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD JUN 09 2004

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
WHITEWAY SANITATION, INC., )  
an Illinois corporation, )  
 )  
Respondent. )

STATE OF ILLINOIS  
Pollution Control Board

PCB No. 04-140

**NOTICE OF FILING**

To: Clifford C. Emons  
Attorney at Law  
123 West Pearl Street  
P.O. Box 290  
Jerseyville, IL 62052

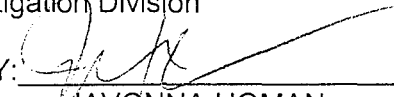
PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,  
Attorney General of the  
State of Illinois

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

BY:   
JAVONNA HOMAN  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: June 4, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that I did on June 4, 2004, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT

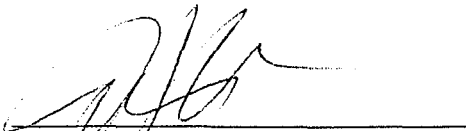
To: Clifford C. Emons  
Attorney at Law  
123 West Pearl Street  
P.O. Box 290  
Jerseyville, IL 62052

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

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

A copy was also sent to:

Carol Sudman  
Hearing Officer  
Illinois Pollution Control Board  
1021 N. Grand Avenue East  
Springfield, IL 62794

  
\_\_\_\_\_  
Javonia Homan  
Assistant Attorney General

This filing is submitted on recycled paper.

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**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

**JUN 09 2004**

**STATE OF ILLINOIS**  
**Pollution Control Board**

PEOPLE OF THE STATE OF )  
ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 WHITEWAY SANITATION, INC., )  
 an Illinois corporation, )  
 )  
 Respondent. )

PCB No. 04-140

**MOTION FOR RELIEF FROM HEARING REQUIREMENT**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2002), moves that the Illinois Pollution Control Board grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2002). In support of this motion, Complainant states as follows:

1. On February 9, 2004, Complainant filed a Complaint with the Board, alleging violations by the Respondent of the Environmental Protection Act open dumping regulations.
2. The parties have reached agreement on all outstanding issues in this matter.
3. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
4. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2002).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS  
LISA MADIGAN  
ATTORNEY GENERAL

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

BY: 

JAVONNA HOMAN  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: June 4, 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED  
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JUN 09 2004

STATE OF ILLINOIS  
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS, )  
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Complainant, )  
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)  
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vs. )  
)  
WHITEWAY SANITATION, INC., )  
an Illinois corporation, )  
)  
Respondent. )

PCB 04-140

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency ("Illinois EPA"), and Whiteway Sanitation, Inc., ("Respondent"), have agreed to the making of this Stipulation and Proposal for Settlement ("Stipulation") and submit it to the Illinois Pollution Control Board ("Board") for approval. The parties agree 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 this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in any other proceeding regarding the claims asserted in the Complaint except as otherwise provided herein. If the Board approves and enters this Stipulation, Respondent agrees to be bound by the Stipulation and Board Order and not to contest their validity in any subsequent proceeding to implement or enforce their terms.

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. (2002).

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 Stipulation and to legally bind them to it.

III.

**STATEMENT OF FACTS**

**A. Parties**

1. On February 9, 2004, 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, pursuant to Section 31 of the Act, 415 ILCS 5/31(2002), against the Respondent.

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 (2002).

3. At all times relevant to the Complaint, Respondent was and is an Illinois corporation that is authorized to transact business in the State of Illinois.

**B. Site Description**

1. At all times relevant to the Complaint, Respondent owned and operated a garage facility located at 98 Curtis Street, Jerseyville, Jersey County, Illinois ("site"). Myrtle Pointer ("Pointer"), is the registered agent for Whiteway and may be reached at 98 Curtis Street, Jerseyville, Illinois 620052-2202.

2. On May 28, 2003, the Illinois EPA received complaints that waste was being stored at the site.

3. On May 28, 2003, the Illinois EPA conducted an inspection of the site. Over thirty dumpsters, some covered and some uncovered, containing trash bags and household refuse were observed. Two inoperable garbage packer trucks, one containing household refuse, and five garbage packer truck beds were noted.

4. One inoperable garbage packer truck referenced in paragraph 3 was located north of the southeast corner of the site. The area around this truck was contaminated with spilled used oil.

5. On the same date, the Illinois EPA observed an inoperable flatbed truck, loaded with old mattresses and furniture exposed to the elements. A panel truck bed containing cardboard and scrap metal were also present at the site.

6. The Illinois EPA further observed eleven 5-gallon plastic buckets of used oil, none properly labeled and four without lids, with evidence of oil spillage.

7. On the same date, the Illinois EPA further noted, scattered throughout the site, scrap metal, old furniture, wood waste, white goods, demolition waste, used and waste tires, and general refuse.

8. Pointer was present at the site during the May 28, 2003, inspection and claimed that most of the waste had come from a village-wide cleanup the previous weekend in Kane, Illinois.

9. While the Illinois EPA found newspapers from May 17 and 18, 2003, in some dumpsters, waste in other dumpsters appeared to be weathered. Pointer stated that the inoperable garbage packer truck containing household refuse had been sitting there since winter.

10. A Violation Notice ("VN") was issued to Whiteway on June 12, 2003. The VN recommended that all wastes be removed from the site and properly disposed or recycled by August 15, 2003. Whiteway submitted a Compliance Commitment Agreement ("CCA") to the



Illinois EPA by facsimile on July 30, 2003, indicating that much of the waste had already been removed from the site, that the used and waste tires would be removed within thirty days, and that a licensed testing company would be addressing the used oil issues.

11. The CCA was rejected by the Illinois EPA on August 15, 2003, since no commitment to complete waste removal was made, other commitments lacked completion deadlines, and the CCA was submitted after the 45-day response period had expired.

12. The Illinois EPA performed a follow-up inspection on July 30, 2003. The Illinois EPA found that most of the waste that caused the previous VN to be issued was still present.

13. A Notice of Intent to Pursue Legal Action was issued to Whiteway on August 29, 2003.

14. The Illinois EPA returned to the site on September 19, 2003. The inspection showed that a considerable amount of the general refuse had been removed and the previously inoperable garbage packer truck containing waste had been repaired. Pointer said that the truck had been sold to a waste disposal company.

15. While at the site on September 19, 2003, the Illinois EPA observed one of the garbage packer truck beds being loaded on to a semi-trailer. Two inoperable trucks, three truck beds, approximately twelve damaged dumpsters, scrap metal, and twelve used or waste tires were still present at the site.

16. The Illinois EPA further noted that the previously observed oil-contaminated soil had still not been cleaned up by September 19, 2003.

17. This site does not have an Illinois EPA permit to develop and operate a landfill.

18. This site does not have an Illinois EPA permit to conduct a waste storage or waste disposal operation.

**C. Allegations of Non-Compliance**

Complainant contends that the Respondent has violated the following provisions of the Act and Board regulations:

**Count I:**

1. On or before May 28, 2003, and continuing through the date on which this Complaint is filed, the Respondent has caused or allowed the open dumping of waste at a disposal site upon its property through the consolidation of refuse from numerous sources. The site is not permitted by the Illinois EPA as a sanitary landfill nor does the disposal site meet the requirements of the Act and of the regulations and the standards promulgated thereunder.
2. By causing or allowing the open dumping of waste, the Respondent has violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2002).
3. On or before May 28, 2003, and continuing through the date on which this Complaint is filed, the Respondent has conducted a waste-storage or waste-disposal operation upon its property without a permit granted by the Illinois EPA or in violation of any regulations or standards adopted by the Board.
4. By conducting a waste-storage or waste-disposal operation upon its property without a permit granted by the Illinois EPA or in violation of any regulations or standards adopted by the Board, the Respondent has violated Section 21(d) of the Act, 415 ILCS 21(d) (2002).
5. On or before May 28, 2003, and continuing through the date on which this Complaint is filed, the Respondent has disposed or stored waste at a site upon its property, or transported waste for disposal or storage to a site upon its property, and such site does not meet the requirements of the Act and of the standards and regulations promulgated thereunder.
6. By disposing or storing or transporting waste at or to a site which does not meet the requirements of the Act and of the standards and regulations promulgated thereunder, the Respondent has violated Section 21(e) of the Act, 415 ILCS 5/21(e) (2002).
7. On or before May 28, 2003, and continuing through the date on which this Complaint is filed, the Respondent has caused or allowed the open dumping of waste in a manner which has resulted in litter.
8. By causing or allowing the open dumping of waste in a manner which has resulted in litter at or from the dump site, the Respondent has violated Section 21(p)(1) of the Act, 415 ILCS 5/21(p)(1) (2002).
9. On or before May 28, 2003, and continuing through the date on which

this Complaint is filed, the Respondent has caused or allowed the open dumping of waste in a manner which has resulted in the deposition of general construction or demolition debris.

10. By causing or allowing the open dumping of waste in a manner which has resulted in the deposition of general construction or demolition debris, the Respondent has violated Section 21(p)(7) of the Act, 415 ILCS 5/21(p)(7) (2002).

**Count II:**

On or before May 28, 2003, and continuing through the date on which this Complaint is filed, the Respondent has developed and operated a landfill without a permit issued by the Illinois EPA, thereby violating 35 Ill. Admin. Code 812.101(a) (1994) and Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2002).

**Count III:**

1. On or before May 28, 2003, and continuing through the date on which this Complaint is filed, the Respondent has developed a solid waste site without a Development Permit issued by the Illinois EPA, thereby violating 35 Ill. Admin. Code 807.201.
2. By allowing the use or operation of any solid waste management site for which a Development Permit is required without an Operating Permit issued by the Illinois EPA, the Respondent has violated 35 Ill. Admin. Code 807.202(a).
3. By violating 35 Ill. Admin. Code 807.201 and 807.202(a), the Respondent has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2002).

**Count IV:**

1. The Respondent has caused or allowed the open dumping of used or waste tires thereby violating Section 55(a)(1) of the Act, 415 ILCS 5/55(a)(1) (2002).
2. The Respondent has caused or allowed the storage of any used tires capable of accumulating water, thereby violating Section 55(a)(3) of the Act, 415 ILCS 5/55(a)(3) (2002).

**Count V:**

1. Waste brought to this site was dumped on the ground or stored at the site for more than 24 hours in the same receptacle that brought it to the site, making this site a transfer station pursuant to Section 3.500 of the Act, 415 ILCS 5/3.500 (2002). This facility is located within 1000 feet of a dwelling.

2. By establishing a pollution control facility for use as a garbage transfer station, located less than 1,000 feet from the nearest property zoned for primarily residential uses or within 1,000 feet of any dwelling, the Respondent violated Section 22.14(a) of the Act, 415 ILCS 5/22.14(a) (2002).

**Count VI:**

1. By generating a solid waste and failing to determine whether the waste is a hazardous waste, the Respondent has violated 35 Ill. Admin. Code 722.111 (1994) and Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2002).
2. By generating a waste and failing to determine whether the waste is a special waste, the Respondent has violated 35 Ill. Admin. Code 808.121 (1994) and Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2002).

**Count VII:**

1. By failing to label the containers storing used oil, the Respondent has violated 35 Ill. Admin. Code 739.122(c) (1994).
2. By violating 35 Ill. Admin. Code 739.122(c), the Respondent has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2002).

**Count VIII:**

1. Upon detection of a release of used oil to the environment, the Respondent failed to stop the release, contain the released used oil, clean-up and properly manage the released used oil and other material, and repair or replace any leaking used oil storage containers or tanks prior to returning them to service. By so doing, the Respondent has violated Section 739.122(d) of the Board's Waste Disposal Regulations, 35 Ill. Admin. Code 739.122(d).
2. By violating Section 739.122(d) of the Board's Waste Disposal Regulations, 35 Ill. Admin. Code 739.122(d), the Respondent has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2002).

**D. Admission of Violations**

The Respondent admits to the violations alleged in the Complaint filed in this matter and referenced herein.

**E. Compliance Activities to Date**

The Respondent removed and properly disposed of the household wastes, construction or demolition debris, loose scrap metal, 55 gallon drums, buckets, tires, vehicles and other waste from the site. In addition, the Respondent removed and properly disposed of 45.27 tons of contaminated soil previously located where the 5-gallon buckets of used oil and heavy oil staining were first observed during the May 28, 2003, inspection. Crushed limestone was used to backfill the areas where contaminated soil was removed from the site.

**IV.**

**APPLICABILITY**

This Stipulation shall apply to and be binding upon the Complainant and the Respondent, and any officer, director, agent, employee or servant 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 pursuant to this Stipulation the failure of any of its officers or agents to take such action as shall be required to comply with the provisions of this Stipulation.

**V.**

**COMPLIANCE WITH OTHER LAWS AND REGULATIONS**

This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations including, but not limited to, the Act and the Board regulations, 35 Ill. Adm. Code, Subtitles A through H.

**VI.**

**IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE**

Section 33(c) of the Act, 415 ILCS 5/33(c)(2002), provides as follows:

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:

1. the character and degree of injury to, or interference with the

protection of the health, general welfare and physical property of the people;

2. the social and economic value of the pollution source;
3. 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;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the parties state the following:

1. Complainant contends that the injury to, or interference with, the protection of the health, general welfare, and physical property of the People would be characterized as a potential for land pollution and the degree of injury would be dependent upon the extent of the pollution and the degree of exposure to that pollution;

2. The parties agree that the Respondent's facility was of social and economic benefit;

3. The Respondent's garage facility was located in Jerseyville and was suitable for the area in which it occurred. However, the facility was not an appropriate location for an unpermitted waste-storage or waste-disposal operation;

4. The parties agree that complying with the Act and regulations is technically practicable and economically reasonable; and

5. Respondent has removed and properly disposed of the household wastes, construction or demolition debris, loose scrap metal, 55 gallon drums, buckets, tires, vehicles and other waste from the site. In addition, the Respondent removed and properly disposed of 45.27 tons of contaminated soil previously located where the 5-gallon buckets of used oil and heavy oil staining were first observed during the May 28, 2003, inspection. Crushed limestone

was used to backfill the areas where contaminated soil was removed from the site.

## VII.

### CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2002), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . 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 the 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;
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 required to perform.

In response to these factors, the parties state as follows:

1. The Respondent open dumped general solid waste at an unpermitted transfer station in Jersey County. Wastes included inoperable trucks, garbage packer truck beds, old

mattresses and furniture, cardboard, scrap metal, used oil, damaged dumpsters, wood waste, white goods, demolition waste, used/ waste tires, and general refuse. The violations began on or around May 28, 2003, and were individually resolved at various times in that year.

Compliance was ultimately achieved on site in December 2003.

2. Respondent was diligent in attempting to come back into compliance with the Act, Board regulations and applicable federal regulations, once the Illinois EPA notified it of its noncompliance.

3. The economic benefit of Respondent's noncompliance is the savings realized by not operating an unpermitted transfer station and not timely disposing of wastes such as inoperable trucks, garbage packer truck beds, old mattresses and furniture, cardboard, scrap metal, used oil, damaged dumpsters, wood waste, white goods, demolition waste, used/ waste tires, and general refuse from the site.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of four thousand five hundred dollars (\$4,500.00) will serve to recover any economic benefit accrued by the Respondent, to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. Whiteway paid a \$500.00 penalty for a litter violation in Administrative Citation PCB No. 89-98. In addition, Whiteway was a party in *People v. Donald Pointer, Mitchael Holder, and Whiteway Sanitation, Inc.*, PCB No. 95-64. This case concerned operational violations at Pointer Landfill, situated on property owned by Holder and operated by Pointer and Whiteway. The respondents were assessed a penalty of \$5,000.00.

6. Self-disclosure is not at issue in this matter.

7. The settlement of this matter does not include a supplemental environmental project.



VIII.

TERMS OF SETTLEMENT

**A. Penalty Payment**

1. The Respondent shall pay a total civil penalty in the sum of four thousand five hundred dollars (\$4,500.00). Within thirty (30) days from the date the Board adopts and accepts this Stipulation, the Respondent shall pay one thousand dollars (\$1,000.00) to the Illinois Environmental Protection Trust Fund; within one hundred and twenty (120) days from the date the Board accepts this Stipulation, the Respondent shall pay one thousand dollars (\$1,000.00) to the Illinois Environmental Protection Trust Fund; within two hundred and ten (210) days from the date the Board accepts this Stipulation, the Respondent shall pay one thousand dollars (\$1,000.00) to the Illinois Environmental Protection Trust Fund; and within three hundred (300) days from the date the Board accepts this Stipulation, the Respondent shall pay one thousand five hundred dollars (\$1,500.00) to the Illinois Environmental Protection Trust Fund. The penalty described in this Stipulation shall be paid by certified check, money order or wire transfer payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and submitted to:

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

The name and number of the case and Respondent's Federal Employer Identification Number (FEIN), shall appear on the check. A copy of the certified check or money order and the transmittal letter shall be sent to:

Thomas Davis, Chief  
Assistant Attorney General  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62702

James Richardson  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2002), interest shall accrue on any payments not paid within the time period prescribed above at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003 (2002). Interest on any unpaid payment shall begin to accrue from the date the payment is due and continue to accrue until the date payment is received. When partial payment(s) are made, such partial payments shall be first applied to any interest on unpaid payments then due and owing. All interest on payments owed shall be paid by certified check or money order, payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and delivered to the address and in the manner described above.

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

Myrtle Pointer  
98 Curtis Street  
Jerseyville, Illinois 62052-2202

4. In the event of default of this Section VIII.A, the Complainant shall be entitled to all available relief including, but not limited to, reasonable costs of collection and reasonable attorney's fees.

**B. Future Use**

Notwithstanding any other language in this Stipulation to the contrary, the Respondent

agrees that this Stipulation may be used against the Respondent in any subsequent enforcement action as proof of a past adjudication of violation of the Act and the Board Regulations promulgated thereunder for all violations alleged in the complaint in this matter, for purposes of Section 39(a) and (i) and/or 42(h) of the Act, 415 ILCS 5/39(a) and (i) and/or 5/42(h)(2002). Further, Respondent agrees to waive any rights to contest, in any subsequent enforcement action, any allegations that these alleged violations were adjudicated.

**C. Right of Entry**

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Attorney General, her agents and representatives, shall have the right of entry into and upon the Respondent's facility which is the subject of this Stipulation, at all reasonable times for the purposes of carrying out inspections. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives may take photographs, samples, and collect information, as they deem necessary.

**D. Cease and Desist**

The Respondent shall cease and desist from future violations of the Act and Board regulations that were the subject matter of the Complaint as outlined in Section III.C. of this Stipulation.

**E. Release from Liability**

In consideration of the Respondent's payment of the \$4,500.00 penalty, upon the completion of all activities required hereunder, and upon the Pollution Control Board's acceptance and approval of the terms of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for violations of the Act and Board regulations 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 Complainant's

Complaint filed on February 9, 2004. The Complainant reserves, and this Stipulation 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 d. liability or claims based on the Respondent's failure to satisfy the requirements of this Stipulation.

Nothing in this Stipulation 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, or entity other than the Respondent.

**F. Enforcement of Board Order**

1. Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Illinois Pollution Control Board and may be enforced as such through any and all available means.

2. Respondent agrees that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation may be made by mail and waives any requirement of service of process.

3. The parties agree that, if the Board does not approve and accept this Stipulation, then neither party is bound by the terms herein.

4. It is the intent of the Complainant and Respondent that the provisions of this Stipulation and any Board Order accepting and approving such 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 clauses shall remain in full force and effect.

WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation as written.

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN  
Attorney General  
State of Illinois

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

BY:

  
\_\_\_\_\_  
THOMAS DAVIS, Chief  
Environmental Bureau  
Assistant Attorney General

DATE: 5/04/04

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

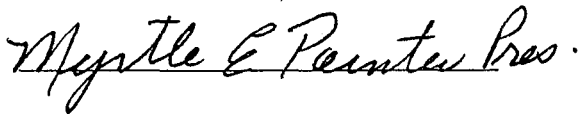
BY:

  
\_\_\_\_\_  
JOSEPH E. SVOBODA  
Chief Legal Counsel

DATE: 5/21/04

WHITEWAY SANITATION, INC.

BY:

  
\_\_\_\_\_  
Myrtle E. Painter Pres.

DATE: 6/2/04