ILLINOIS POLLUTION CONTROL BOARD July 22, 2004

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
V.)	PCB 04-206
)	(Enforcement - Land)
MEDICAL WASTE SOLUTIONS, INC., an Illinois corporation,)	
Respondent.)	

OPINION AND ORDER OF THE BOARD (by J.P. Novak):

On May 21, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Medical Waste Solutions, Inc. (Medical Waste Solutions). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The People allege that Medical Waste Solutions violated Section 56.1(A)(b) and (A)(f) of the Environmental Protection Act (Act) (415 ILCS 5/56.1(A)(f) (2002)); 35 Ill. Adm. Code 1421.141(b) and (g); and standard conditions 2, 3, 17, and 19 of potentially infectious medical waste (PIMW) permit #M9035. The People further allege that Medical Waste Solutions violated these provisions by hauling PIMW in an unauthorized vehicle, leaving a PIMW-containing compartment open while the vehicle was unattended, failing to mark both sides of the vehicle with PIMW decals and the permit number, and failing to keep a copy of an emergency response plan in the vehicle. The complaint concerns Medical Waste Solutions' PIMW collection and hauling service from a medical facility at 450 Illinois Route 22, Barrington, Lake County.

On May 21, 2004, the People and Medical Waste Solutions also 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) (2002)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2002)), 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). The Board provided notice of the stipulation, proposed settlement, and request for relief from hearing. The Board published newspaper notice in the Barrington Courrier-Review/Pioneer Press on June 17, 2004. 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) (2002); 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 Medical Waste Solutions' 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) (2002)), which bears on the reasonableness of the circumstances surrounding the alleged violations. The People and Medical

Waste Solutions have satisfied Section 103.302. Medical Waste Solutions neither admits nor denies the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2002), as amended by P.A. 93-575, (eff. Jan. 1, 2004), which may mitigate or aggravate the civil penalty amount. Medical Waste Solutions agrees to pay a civil penalty of \$13,000. Medical Waste Solutions contends that it has already spent \$33,000 to purchase and permit an additional PIMW hauling vehicle and engage in other compliance-oriented activities, which the parties stipulate negates any economic benefit that Medical Waste Solutions' derived from delayed compliance. 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.
- 2. Medical Waste Solutions must pay a civil penalty of \$13,000 no later than August 5, 2004, which is the 14th day after the date of this order. Medical Waste Solutions must pay the civil penalty by certified check or money order, payable to the Environmental Protection Trust Fund. The case number, case name, and Medical Waste Solutions's federal employer identification number must be included on the certified check or money order.
- 3. Medical Waste Solutions 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

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2002)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2002)).
- 5. Medical Waste Solutions must cease and desist from the alleged 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) (2002); *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, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on July 22, 2004, by a vote of 5-0.

Dorothy M. Gunn, Clerk

Illinois Pollution Control Board