

Section 103.302 of the Board's procedural rules sets forth the required contents of stipulation and proposed settlement. 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 respondents' 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)).

The People and Whiteway have satisfied Section 103.302. Under the proposed stipulation, Whiteway admits the alleged violations and agrees to pay a civil penalty of \$4,500. The Board accepts the stipulations and proposed settlements.

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. Whiteway Sanitation, Inc., an Illinois corporation (Whiteway) must pay a total civil penalty of \$4,500. A payment of \$1,000 must be paid on or before August 23, 2004; an additional payment of \$1,000 must be paid on or before November 19, 2004; an additional payment of \$1,000 must be paid on or before February 17, 2005; and an additional payment of \$1,500 must be paid on or before May 18, 2005. Whiteway must pay the civil penalty by certified check, money order or wire transfer, payable to the Environmental Protection Trust Fund. The case number, case name, and Whiteway's social security number or federal employer identification number must be included on the certified check or money order.

3. Respondents must send the certified checks or money orders to:

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

4. A copy of the certified check or money order and the transmittal letter must be sent to:

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

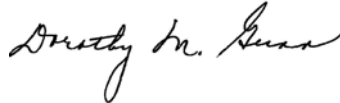
James Richardson
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

5. 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). When partial payments are made, such partial payments will first be applied to any interest on unpaid payments then due and owing. All interest on payments owed must be paid by certified check or money order, payable to the Illinois Environmental Protection Agency (Agency), designated to the Illinois Environmental Trust Fund as noted above.
6. Respondents must cease and desist from the alleged violations.
7. In addition to any other authority, the Agency and the Attorney General, and the agents and representatives of either, have the right of entry into and upon Whiteway's facility at all reasonable times for the purposes of carrying out inspections.

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