## ILLINOIS POLLUTION CONTROL BOARD July 22, 2004

PEOPLE OF THE STATE OF ILLINOI	S, )	
Complainant,	)	
,	)	
V.	) P	CB 04-140
	) (H	Enforcement - Land)
WHITEWAY SANITATION, INC., an	Illinois)	
corporation,	)	
	)	
Respondent.	)	

## OPINION AND ORDER OF THE BOARD (by T.E. Johnson):

On February 9, 2004, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Whiteway Sanitation, Inc., an Illinois corporation (Whiteway). *See* 415 ILCS 5/31(c)(1) (2002); 35 Ill. Adm. Code 103.204. The complaint concerns Whiteway's garage facility located at 98 Curtis Street, Jerseyville, Jersey County.

The People allege that Whiteway violated Sections 21(a),(d),(e) and (p)(1) and (7); 22.14(a); and 55(a)(1) and (3) of the Environmental Protection Act (Act). 415 ILCS 5/21(a),(d),(e) and (p)(1) and (7); 22.14(a); and 55(a)(1) and (3) (2002); 35 Ill. Adm. Code 722.111, 739.122(c), 808.121 and 812.101(a) (1994); and 35 Ill. Adm. Code 739.122(d), 807.201 and 807.202(a) (2002). The People allege Whiteway violated these provisions by (1) causing, or allowing the open dumping of waste; (2) conducting a waste storage or waste disposal operation without a permit; (3) disposing, storing, or transporting waste at a site not meeting the requirements of the Act or Board regulations; (4) causing or allowing the open dumping of waste in a manner resulting in litter or deposition of construction debris; (5) developing and operating a landfill without a permit; (6) allowing the operation or use of a solid waste management site without an operating permit; (7) causing or allowing the open dumping of used waste tires; (8) establishing a pollution control facility for use as a garbage transfer station; (9) generating a waste and failing to determine if that waste is a special waste; (10) failing to label containers storing used oil; and (11) failing to stop, contain or cleanup the release of used oil.

On June 9, 2004, the People and Whiteway 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). These filings are authorized by Section 31(c)(2) of the Act. 415 ILCS 5/31(c)(2) (2002). See 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, Whiteway admits to the violations alleged in the complaint, and agrees to pay a civil penalty of \$4,500. The Board provided notice of the stipulation, proposed settlement, and request for relief. The newspaper notice was published in the *Telegraph* on June 18, 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 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