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STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

August 17, 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 and OBJECTION TO DEFENDANT'S MOTION FOR RECONSIDERATION 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 "Javonga Homan", is written over the typed name.

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

JH/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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AUG 20 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

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, an OBJECTION TO DEFENDANT'S MOTION FOR RECONSIDERATION, a copy of which is attached hereto and herewith served upon you.

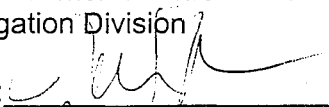
Respectfully submitted,

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: August 17, 2004

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CERTIFICATE OF SERVICE

STATE OF ILLINOIS
Pollution Control Board

I hereby certify that I did on August 17, 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 and OBJECTION TO DEFENDANT'S MOTION FOR RECONSIDERATION


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



Javonna Homan
Assistant Attorney General

This filing is submitted on recycled paper.

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AUG 20 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

PCB 04-140

OBJECTION TO DEFENDANT'S MOTION FOR RECONSIDERATION

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and the Illinois Environmental Protection Agency ("Illinois EPA"), hereby objects to the Respondent's Motion for Reconsideration of the Stipulation. In support of this objection, the Complainant hereby states as follows

1. On February 9, 2004, the Complainant filed a Complaint in the above captioned matter before the Illinois Pollution Control Board.
2. The Complaint was accepted for hearing on February 19, 2004.
3. On June 9, 2004, the Complainant and Respondent filed a Stipulation and Settlement with the Illinois Pollution Control Board.
4. On July 22, 2004, the Stipulation was accepted by the Board. Parties were given thirty-five days in which to file an appeal.
5. On August 6, 2004, the Complainant received a copy of a handwritten letter from Mrs. Myrtle Pointer, forwarded to the Complainant by the Illinois Pollution Control Board.
6. The Illinois Pollution Control Board cover letter stated that this handwritten letter would be looked upon as a request for reconsideration.
7. Under 35 Ill. Adm. Code 101.902, in ruling on a Motion for Reconsideration,

"...the Board will consider factors including new evidence, or a change in the law, to conclude that the Board's decision was in error."

8. In the letter, Mrs. Pointer discusses her marital status and financial situation, as well as referring to the financial status of the corporation Whiteway. She provides a brief discussion of some monies due and owing and a projection of what she expects to clear from sale of some assets and payment of some of her outstanding bills.

9. There is no suggestion that any of this information constitutes "new evidence" in any way relevant to the case captioned PCB 04-140. At best it appears to be an attempt to renegotiate a portion of the terms of the Stipulation previously signed by Mrs. Pointer with the advice of counsel and already entered by this Board.

10. There is no suggestion that any portion of the law relevant to the issues and facts in this case, or to the Stipulation already entered, has been changed.

11. There is no suggestion that the Board's decision has been made in error.

12. At the conclusion of the introductory paragraph of the Stipulation appears this language: "[i]f 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."

13. On August 9, 2004, representatives of the Illinois Environmental Protection Agency conducted a search of the PACER database maintained by the United States Bankruptcy Courts.

14. There were no bankruptcy filings listed on behalf of Mrs. Myrtle Pointer or Whiteway Sanitation with either the Central or Southern District of Illinois as of August 9, 2004. Complainant has not received any notice of bankruptcy filing on behalf of Mrs. Myrtle Pointer or Whiteway Sanitation to date.

15. Reopening this matter will require Mrs. Myrtle Pointer to incur potentially

significant additional legal fees. Also, it is possible that the Respondent will receive a penalty significantly higher than that already agreed to in the Stipulation in addition to her continued legal expenses.

16. It is the position of the Complainant that the Respondent has not raised any issue or question of fact sufficient to cause this Board to reopen the Stipulation previously agreed to by both parties. Furthermore, the Respondent has already agreed to be bound by the terms of the Stipulation and not to further contest those terms. Reopening this matter would require the expenditure of more time and money by both sides. As such, the Complainant would respectfully request that this Motion for Reconsideration be denied.

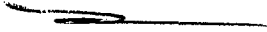
WHEREFORE, Complainant requests that the Board DENY Respondent's Motion for Reconsideration and that the Stipulation be allowed to stand as entered.

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: 8/17/04