ILLINOIS POLLUTION CONTROL BOARD December 17, 2009

PEOPLE OF THE STATE OF ILLINOIS,)	
Complainant,)	
v.)	PCB 10-29
WASTE MANAGEMENT OF ILLINOIS,)	(Enforcement - Water)
INC., Respondent.)	
Respondent.	,	

ORDER OF THE BOARD (by G.T. Girard):

On November 2, 2009, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a two-count complaint against Waste Management of Illinois, Inc., (Waste Management). See 415 ILCS 5/31(c)(1) (2008)¹; 35 Ill. Adm. Code 103.204. Accompanying the complaint was a stipulation and proposal for settlement. The complaint concerns a site located in Galesburg, Knox County. The parties seek to settle without a hearing. For the reasons below, the Board accepts the parties' stipulation and proposed settlement.

Under the Environmental Protection Act (Act) (415 ILCS 5 (2008)), the Attorney General and the State's Attorneys may bring actions before the Board to enforce Illinois' environmental requirements on behalf of the People. *See* 415 ILCS 5/31 (2008); 35 Ill. Adm. Code 103. In this case, the People allege that Waste Management violated Sections 12(a), 12(d), and 12(f) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), 12(d), 12(f) (2008)) and Sections 304.106 and 309.102(a) of the Board's public water supply regulations (35 Ill. Adm. Code 304.106, 309.102(a)).

According to the complaint, Waste Management violated these provisions by discharging material containing solids and liquids of obvious color from a garbage truck into a storm sewer inlet, which caused, allowed or threatened a water pollution hazard, offensive discharges into waters of the State, discharge of contaminants so as to cause water pollution, and discharged contaminants into waters of the State from a point source without coverage under an National Pollutant Discharge Elimination System permit.

On November 2, 2009, the People and Waste Management 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) (2008)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)), which requires that the public have an opportunity to request a hearing whenever the State and a respondent propose settling an enforcement action

¹ All citations to the Act will be to the 2008 compiled statutes because the provisions at issue have not been substantively amended in the 2008 compiled statutes.

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. The newspaper notice was published in the *Galesburg Register-Mail* on November 7, 2009. 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) (2008); 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. *See* 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 respondent's 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) (2008)), which bears on the reasonableness of the circumstances surrounding the alleged violations. Respondent Waste Management admits the alleged violations. The stipulation also addresses the factors of Section 42(h) of the Act (415 ILCS 5/42(h) (2008)), which may mitigate or aggravate the civil penalty amount. Respondent agrees to pay a civil penalty of \$9,500.00.

The People and respondent have satisfied Section 103.302. 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. Waste Management must pay a civil penalty of \$9,500.00 no later than January 19, 2010, which is the first business day following the 30th day after the date of this order. Waste Management must pay the civil penalty by certified check or money order payable to the Illinois Environmental Protection Agency for deposit into the Environmental Protection Trust Fund. The case name, case number, and Waste Management's federal tax identification number must appear on the face of the certified check or money order.
- 3. Waste Management must submit payment of the civil penalty to:

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

Waste Management must send a copy of the certified check or money order, and any transmittal letter to:

Environmental Bureau

Illinois Attorney General's Office 500 South Second Street Springfield, Illinois 62706

- 4. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2008)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2008)).
- 5. Waste Management 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) (2008); 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.

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on December 17, 2009, by a vote of 5-0.

John Therriault, Assistant Clerk Illinois Pollution Control Board