

ILLINOIS POLLUTION CONTROL BOARD
August 19, 1999

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 95-64
) (Enforcement - Land)
DONALD POINTER, MITCHELL HOLDER, and)
WHITEWAY)
SANITATION, INC.,)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by R.C. Flegal):

On June 18, 1999, the parties filed a stipulation and proposal for settlement. The Board accepts the stipulation and proposal for settlement filed by the parties in this matter. The complaint alleged that respondents violated Sections 12(a), 21(d), 21(d)(1), 21(d)(2), 21(o)(5), 21(o)(6), 21(o)(11), and 21.1(a) of the Environmental Protection Act (Act) (415 ILCS 5/12(a), 21(d), 21(d)(1), 21(d)(2), 21(o)(5), 21(o)(6), 21(o)(11), and 21.1(a) (1998)) and 35 Ill. Adm. Code 620.115, 620.301(a), 620.405, 620.420(d)(3), 620.420(a)(2), 807.302, 807.314(e), 807.318(a), 807.501(b), 807.503(a), 807.523, 807.601(b), and 807.602(b) by depositing refuse in an unpermitted area, by failing to submit groundwater monitoring reports, failing to maintain adequate daily cover, by causing or allowing the discharge of contaminants into a water of the State, by failing to take adequate measures to monitor and control leachate, by failing to take necessary remedial action to abate water problems, by failing to provide financial assurance for closure and post-closure care, by failing to provide a closure and post-closure plans, and by failing to have a Class A certified operator employed.

Pursuant to Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (1998)), the Board caused publication of the required newspaper notice of the stipulation and proposal for settlement and request for relief from the hearing requirement. The Board did not receive any requests for hearing. Accordingly, the Board grants a waiver of the hearing requirement.

The stipulation and proposal for settlement sets forth the facts relating to the nature, operations, and circumstances surrounding the allegations in the complaint. Respondents admit the alleged violations and agrees to pay a civil penalty of \$5,000. Respondents must continue to comply with any federal, State, or local regulations including, but not limited to, the Act and the Board's regulations.

This opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

1. The Board hereby accepts the stipulation and settlement agreement executed by the People of the State of Illinois and respondents, Donald Pointer, Mitchell, Holder, and Whiteway Sanitation, Inc., regarding the Pointer Landfill, located in Jersey County, Illinois. The stipulation and settlement agreement is incorporated by reference as though fully set forth herein.
2. The respondent shall pay the total sum of \$5,000 pursuant to the following schedule:
 - a. \$2,500 shall be due on or before December 31, 1999; and
 - b. \$2,500 shall be due on or before December 31, 2000.

Such payment shall be made by certified check payable to the Treasurer of the State of Illinois, designated to the Environmental Protection Trust Fund. The case number, case name, and respondents' social security number or federal employer identification number 37- 0999953 shall also be included on each check and should clearly indicate that payment is directed to the Environmental Protection Trust Fund.

3. The check shall be sent by first class mail to:

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

A copy of the payment transmittal and check shall be simultaneously submitted to:

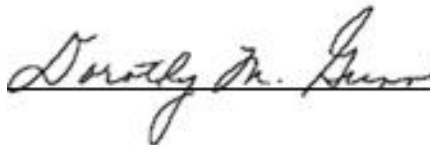
Donna Lutes
Office of the Illinois Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706

4. Any such penalty not paid within the time prescribed shall incur interest at the rate set forth in subsection (a) of Section 1003 of the Illinois Income Tax Act, (35 ILCS 5/1003), as now or hereafter amended, from the date payment is due until the date payment is received. Interest shall not accrue during the pendency of an appeal during which payment of the penalty has been stayed.
5. Respondent shall cease and desist from the alleged violations.

IT IS SO ORDERED.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1998)) provides for the appeal of final Board orders to the Illinois Appellate Court within 35 days of service of this order. Illinois Supreme Court Rule 335 establishes such filing requirements. See 172 Ill. 2d R. 335; see also 35 Ill. Adm. Code 101.246, Motions for Reconsideration.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above opinion and order was adopted on the 19th day of August 1999 by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board