

ILLINOIS POLLUTION CONTROL BOARD

October 7, 2010

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 11-14
) (Enforcement - Land)
WASTE MANAGEMENT OF ILLINOIS,)
INC. d/b/a COTTONWOOD HILLS)
LANDFILL,)
)
Respondent.)

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

On September 24, 2010, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a six-count complaint against Waste Management of Illinois, Inc., doing business as Cottonwood Hills Landfill (WMII). The complaint concerns WMII's municipal solid waste landfill located at 10400 Hillstown Road in Marissa, St. Clair County. Accompanying the complaint was a stipulation, proposal for settlement, and request for relief from the hearing requirement. For the reasons below, the Board accepts the complaint but directs that a further filing be made to reconcile an inconsistency between the complaint and the stipulation.

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 WMII violated Sections 21(d)(1), 21(e), and 21(o)(12) of the Act (415 ILCS 5/21(d)(1), 21(e), 21(o)(12) (2008)) and condition II.2(l) of WMII's operating permit by failing to collect and contain litter from the site by the end of each operating day (count I). The People also allege that WMII violated Sections 21(d)(1), 21(d)(2), 21(e), and 21(o)(5) of the Act (415 ILCS 5/21(d)(1), 21(d)(2), 21(e), 21(o)(5) (2008)), Section 811.313 of the Board's waste disposal regulations (35 Ill. Adm. Code 811.313), and conditions II.2(e) and II.7 of WMII's operating permit by failing to properly cover refuse (count II). In count III, the People allege that WMII violated Sections 21(d)(1), 21(e), 22.22(c), and 55(b)(1) of the Act (415 ILCS 5/21(d)(1), 21(e), 22.22(c), 55(b)(1) (2008)) and conditions II.10(a) and II.10(d) of WMII's operating permit by accepting landscape waste and used or waste tires for final disposal at the facility. Additionally, the People allege that WMII violated Sections 21(d)(2) and 21(e) of the Act (415 ILCS 5/21(d)(2), 21(e) (2008)) and Section 745.181(b)(2) of the Board's waste disposal regulations (35 Ill. Adm. Code 745.181(b)(2)) by designating a Chief Operator who serves in that capacity at two or more waste disposal sites (count IV). The People also allege that WMII violated Sections 21(d)(1), 21(d)(2), and 21(e) of the Act (415 ILCS 5/21(d)(1), 21(d)(2), 21(e) (2008)), Section 811.318(d)(6) of the Board's waste disposal regulations (35 Ill. Adm. Code 811.318(d)(6)), and condition VIII.5 of WMII's operating permit

by failing to keep groundwater monitoring wells covered with vented caps and equipped with devices to protect against tampering and damage (count V). Finally, count VI of the People's complaint alleges that WMII violated Sections 21(d)(1), 21(d)(2), and 21(e) of the Act (415 ILCS 5/21(d)(1), 21(d)(2), 21(e) (2008)), Section 811.323(c) of the Board's waste disposal regulations (35 Ill. Adm. Code 811.323(c)), and condition II.8 of WMII's operating permit by failing to properly record information and observations derived from random inspections. The Board finds that the complaint meets the applicable content requirements of the Board's procedural rules and accepts the complaint. *See* 35 Ill. Adm. Code 103.204(c).

As noted above, also on September 24, 2010, the People and WMII 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 without a public hearing. *See* 35 Ill. Adm. Code 103.300(a). Under the proposed stipulation, WMII admits to the alleged violations and agrees to undertake a Supplemental Environmental Project with a settlement value of \$12,000, consisting of providing landfill disposal space to the State of Illinois.

Generally, unless the Board determines that a hearing is needed, the Board causes notice of a stipulation, proposed settlement, and request for relief from the hearing requirement. Any person may file a written demand for hearing within 21 days after receiving the notice. If anyone timely files a written demand for hearing, the Board denies the parties' request for relief and holds a hearing. *See* 415 ILCS 5/31(c)(2) (2008); 35 Ill. Adm. Code 103.300(b), (c).

In this case, however, the Board will not direct the Clerk to provide such notice at this time because there is an inconsistency between the complaint and the stipulation that must first be reconciled. Specifically, the statement of alleged violations in the stipulation does not include count VI of the complaint. *See* Stipulation at 3-5. This discrepancy must be addressed before the Board will provide any notice under Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2008)). Accordingly, the Board directs that either the People file an amended complaint or a statement that they wish count VI to proceed to hearing, or the People and WMII file an amended stipulation and proposed settlement, accompanied by another request for relief from the hearing requirement. *See* People v. Swinson, PCB 10-08, slip op. at 2 (June 17, 2010).

IT IS SO ORDERED.

I, John Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on October 7, 2010, by a vote of 5-0.



John Therriault, Assistant Clerk
Illinois Pollution Control Board

