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MAR 19 2004

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

PCB 04-165

March 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. Medical Waste Management, Inc., a Missouri corporation***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a NOTICE OF FILING, APPEARANCE and COMPLAINT 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,

Sally A. Carter
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

SAC/pp
Enclosures

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CLERK'S OFFICE

MAR 19 2004

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF
ILLINOIS,

Complainant,

vs.

MEDICAL WASTE MANAGEMENT, INC.,
a Missouri corporation,

Respondent.

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No. 04-165

STATE OF ILLINOIS
Pollution Control Board

NOTICE OF FILING

To: Wally El-Beck
394 Summitt
Blytheville, AR 72315

Wally El-Beck
136 East Hazel Dell Lane
Springfield, IL 62707

PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, a copy of which is attached hereto and herewith served upon you. Failure to file an answer to this Complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in this Complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney.

FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2002), to correct the pollution alleged in the Complaint filed in this case.

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: *Sally A. Carter*
SALLY A. CARTER
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: March 17, 2004

CERTIFICATE OF SERVICE

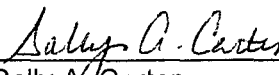
I hereby certify that I did on March 17, 2004, send by certified mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, ENTRY OF APPEARANCE and COMPLAINT:

To: Wally El-Beck
394 Summitt
Blytheville, AR 72315

Wally El-Beck
136 East Hazel Dell Lane
Springfield, IL 62707

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



Sally A. Carter
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF
ILLINOIS,

Complainant,

vs.

MEDICAL WASTE MANAGEMENT, INC.,
a Missouri corporation,

Respondent.

No. 04-165

ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, SALLY A. CARTER,
Assistant Attorney General of the State of Illinois, hereby enters her appearance as attorney of
record.

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:

Sally A. Carter
SALLY A. CARTER

Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: March 17, 2004

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MAR 19 2004

STATE OF ILLINOIS
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,

Complainant,

-vs-

MEDICAL WASTE MANAGEMENT, INC., a
Missouri Corporation,

Respondent.

PCB No. 04-165

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondent, MEDICAL WASTE MANAGEMENT, INC. as follows:

COUNT I

TRANSPORTATION OF PIMW WITHOUT A VALID PERMIT

1. This Complaint is brought by the Attorney General on her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2002).
2. The Illinois EPA is an agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2002), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").
3. The Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2002), after providing the Respondent with notice and opportunity for a meeting with the Illinois EPA.
4. Medical Waste Management ("MWM") was a transporter of potentially infectious

medical waste ("PIMW") in Illinois. At the time the Defendant received its permit to transport PIMW, MWM was a Missouri corporation authorized to transact business in Illinois. Its registered agent was C.T. Corporation System, 208 South LaSalle Street, Chicago, Illinois 60604.

5. The Illinois Secretary of State revoked MWM's authorization to transact business in Illinois on August 1, 2002, due to the Defendant's failure to file its 2002 report. MWM's last known mailing address is P.O. Box 664, Osceola, Arkansas 72370. MWM's president, Wally El-Beck, may be contacted at 136 East Hazel Dell Lane, Springfield, Illinois 62707.

6. On June 27, 2000, the Illinois EPA issued MWM PIMW Permit #M9041 to transport PIMW generated in or destined for Illinois. On September 4, 2001, the Illinois EPA granted a renewal of the permit that was valid until June 30, 2002.

7. In December 2002, an Illinois hospital contacted the Illinois EPA inquiring as to whether MWM had a permit to haul PIMW.

8. In early 2003, the Illinois EPA learned that the Missouri Department of Natural Resources and Arkansas' Departments of Public Health and Environmental Quality were investigating MWM's transportation, storage and incineration of PIMW in their respective states.

9. MWM did not submit a complete renewal application for PIMW Permit No. M9041 until March 3, 2003. The renewal application was approved by the Illinois EPA on March 4, 2003 and was valid through June 30, 2003. On May 2, 2003, the permit was rescinded and invalidated based upon a request from MWM that indicated it had ceased operations in Illinois. In addition, MWM's check for the fee to renew the permit was not honored by MWM's bank.

10. Between April 15 and 18, 2003, the Illinois EPA investigated several medical facilities that employed MWM for their PIMW transportation in Illinois.

11. The Illinois EPA inspector found that MWM serviced Carlinville Area Hospital, a small private hospital with approximately 33 beds, from October 2000 until December 2002. At least nine shipments of PIMW occurred after MWM's permit expired on June 30, 2002, each documented by MWM's own "Infectious Waste Tracking Document."

12. The Illinois EPA inspector found that MWM serviced Community Memorial Hospital of Staunton, a small private hospital with approximately 30 to 40 beds, from October 2000 until December 2002. At least ten shipments of PIMW occurred after MWM's permit expired on June 30, 2002, each documented by MWM's own "Infectious Waste Tracking Document."

13. The Illinois EPA inspector found that MWM serviced Illini Community Hospital of Pittsfield, a small private hospital with approximately 35 beds, from October 2000 until March 2003. At least six shipments of PIMW occurred after MWM's permit expired on June 30, 2002, each documented by MWM's own "Infectious Waste Tracking Document."

14. The Illinois EPA inspector found that MWM serviced Pana Community Hospital, a small private hospital with approximately 44 beds, from October 2000 until December 2002. At least five shipments of PIMW occurred after MWM's permit expired on June 30, 2002, each documented by MWM's own "Infectious Waste Tracking Document."

15. The Illinois EPA inspector found that MWM serviced Shelby Memorial Hospital of Shelbyville, a small private hospital with approximately 30 beds, from October 2000 until October 2002. At least four shipments of PIMW occurred after MWM's permit expired on June 30, 2002, each documented by MWM's own "Infectious Waste Tracking Document."

16. The Illinois EPA inspector found that MWM serviced Winchester Family Practice, a clinic that primarily provides immunizations, draws blood samples, and performs other diagnostic procedures. MWM hauled at least two PIMW shipments for the clinic, one of which

occurred after the expiration of its permit and was documented by MWM's own "Infectious Waste Tracking Document."

17. In addition, the Illinois EPA also inspected Sparta Community Hospital in Randolph County on April 15, 2003. The Illinois EPA inspector discovered that MWM had transported at least 11 shipments of PIMW after the expiration of its permit, all documented with MWM's own "Infectious Waste Tracking Document."

18. Section 21(j) of the Act, 415 ILCS 5/21(j) (2002), provides:

No person shall:

Conduct any special waste transportation operation in violation of any regulations, standards or permit requirements adopted by the Board under this Act.

19. Section 56.1(f) of the Act, 415 ILCS 5/56.1(f) (2002), provides:

No person shall:

f. Beginning July 1, 1992, conduct any potentially infectious medical waste transportation operation (unless no permit is required by provisions (f)(1)(A, B or C):

- (1) Without a permit issued by the Agency to transport potentially infectious medical waste.
- (2) In violation of any condition of any permit issued by the Agency under this Act.
- (3) In violation of any regulation adopted by the Board.
- (4) In violation of any order adopted by the Board under this Act.

20. Section 1420.104(f) of the Board's Biological Materials Regulations, 35 Ill.

Admin. Code 1420.104(f), provides as follows:

No person shall:

f. Beginning July 1, 1992, conduct any PIMW transportation operation:

- (1) Without a permit issued by the Agency to transport PIMW, unless no permit is required pursuant to subsection 1420.105(b) of this Part.
- (2) In violation of any condition of any permit issued by the Agency under the Act.
- (3) In violation of any regulation adopted by the Board.
- (4) In violation of any order adopted by the Board under the Act.

21. Section 1420.105(b) of the Board's Biological Materials Regulations, 35 Ill.

Admin. Code 1420.105(b), states, in relevant part, as follows:

A person who conducts a PIMW transportation operation is required to obtain a PIMW hauling permit from the Agency, unless not required by (b)(1, 2 or 3).

22. MWM transported at least 46 shipments of PIMW from seven medical facilities in Illinois after its permit expired on June 30, 2002.

23. By transporting at least 46 shipments of PIMW from seven medical facilities in Illinois after its permit expired, the Respondent has violated Sections 21(j) and 56.1(f) of the Act, 415 ILCS 5/21(j) and 56.1(f) (2002), and 35 Ill. Admin. Code 1420.104(f) and 1420.105(b).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent:

A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

B. Finding that Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2002), impose a civil penalty of not more than the statutory maximum;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), awarding to Complainant its costs and reasonable attorney fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT II

PIMW TRANSPORTATION WITHOUT REQUIRED MANIFESTS

1-17. Complainant realleges and incorporates herein by reference paragraphs 1 through 17 of Count I as paragraphs 1 through 17 of this Count II.

18. Section 56.1 of the Act, 415 ILCS 5/56.1 (2002), provides, in relevant part:

No person shall:

* * *

- h. Transport potentially infectious medical waste unless the transporter carries a completed potentially infectious medical waste manifest. No manifest is required for transportation identified in (h)(1, 2 or 3).
- i. Offer for transportation, transport, deliver, receive, or accept potentially infectious medical waste for which a manifest is required, unless the manifest indicates that the fee required under Section 56.4 of this Act has been paid.

* * *

19. Section 1420.104 of the Board's Biological Materials Regulations, 35 Ill. Admin. Code 1420.104, provides, in relevant part:

No person shall:

* * *

- h. Transport PIMW unless the transporter carries a completed PIMW manifest, unless no manifest is required pursuant to subsection 1420.105(e) of this Part.
- i. Offer for transportation, transport, deliver, receive, or accept PIMW for which a manifest is required, unless the manifest indicates that the fee required under Section 56.4 of the Act has been paid.

* * *

20. Section 1420.105(e) of the Board's Biological Materials Regulations, 35 Ill.

Admin. Code 1420.105(e), provides as follows:

Any person who transports PIMW is required to carry a completed PIMW manifest, unless not required by (e)(1, 2 or 3).

21. The "Infectious Waste Tracking Documents" used by MWM were not prescribed and provided by the Illinois EPA, and did not indicate that the fee required by 56.4 of the Act had been paid.

22. By using Infectious Waste Tracking Documents" that were not prescribed and provided for by the Illinois EPA and that did not indicate that the fee required by 56.4 of the Act had been paid, the Respondent has violated Sections 56.1(h) and (i), 415 ILCS 5/56.1(h) and (i) (2002), and 35 Ill. Admin. Code 1420.104 and 1420.105 (e).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;

C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;

D. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2002), impose a civil penalty of not more than the statutory maximum;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), awarding to Complainant its costs and reasonable attorney fees; and

F. Granting such other relief as the Board may deem appropriate.

COUNT III

FAILURE TO SUBMIT REQUIRED REPORTS

1-17. Complainant realleges and incorporates herein by reference paragraphs 1 through 17 of Count I as paragraphs 1 through 17 of this Count III.

18. Section 56.3 of the Act, 415 ILCS 5/56.3 (2002), provides:

Commencing March 31, 1993, and annually thereafter, each transporter of potentially infectious medical waste required to have a permit under subsection (f) of Section 56.1 of this Act, each facility for which a permit is required under subsection (g) of Section 56.1 of this Act that stores, treats, or transfers potentially infectious medical waste and each facility not required to have a permit under subsection (g) of Section 56.1 of this Act that treats more than 50 pounds per month of potentially infectious medical waste shall file a report with the Agency specifying the quantities and disposition of potentially infectious medical waste transported, stored, treated, disposed, or transferred during the previous calendar year. Such reports shall be on forms prescribed and provided by the Agency.

19. Section 1420.141(1) of the Board's Biological Materials Regulations, 35 Ill. Adm. Code 1420.141(1), provides as follows:

Commencing March 31, 1993, and annually thereafter, each transporter of PIMW required to have a permit under subsection (f) of Section 56.1 of the Act shall file a report with the Agency specifying the quantities and disposition of PIMW transported during the previous calendar year. Such reports shall be on forms prescribed and provided by the Agency.

20. Section 1450.201(c) of the Board's Biological Materials Regulations, 35 Ill. Adm.

Code 1450.201(c), states as follows:

The Monthly PIMW Reports covered by the quarter shall be submitted with the Quarterly PIMW Report to the Agency.

21. Section 1450.202 of the Board's Biological Materials Regulations, 35 Ill. Adm.

Code 1450.202, states, in relevant part, as follows:

* * *

- c. The Quarterly PIMW Report shall be received by the Agency on or before April 15, July 15, October 15 and January 15 of each calendar year and shall cover the three calendar months preceding the receipt date.
- d. The PIMW transporter fee required to be paid under Subpart C of this Part shall be included with the submission of the Quarterly PIMW Report. The weight in pounds of PIMW subject to the PIMW transporter fee is required to be listed on each PIMW manifest.
- e. The PIMW Quarterly Report, including the payment of the PIMW transporter fee and the applicable Monthly PIMW Reports, shall be sent to the Illinois Environmental Protection Agency.

* * *

22. Illinois EPA records indicate that MWM failed to submit an Annual PIMW Report for 2002, the Quarterly PIMW Report for the first quarter of 2003, and Monthly PIMW Reports for the first quarter of 2003.

23. By failing to submit the Annual PIMW Report for 2002, the Quarterly PIMW Report for the first quarter of 2003, and Monthly PIMW Reports for the first quarter of 2003, the Respondent violated Section 56.3 of the Act, 415 ILCS 5/56.3 (2002) and 35 Ill. Adm. Code 1420.141(1), 1450.201(c) and 1450.202.

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectfully request that the Board enter an order against the Respondent:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2002), impose a civil penalty of not more than the statutory maximum;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), awarding to Complainant its costs and reasonable attorney fees; and
- F. Granting such other relief as the Board may deem appropriate.

COUNT IV

FAILURE TO PAY REQUIRED FEES

1-17. Complainant realleges and incorporates herein by reference paragraphs 1 through 17 of Count I as paragraphs 1 through 17 of this Count IV.

18. Complainant realleges and incorporates herein by reference paragraph 21 of Count III as paragraph 18 of this Count IV.

19. Section 21(k) of the Act, 415 ILCS 5/21(k) (2002), provides:

No person shall:

Fail or refuse to pay any fee imposed under this Act.

20. Section 1450.300(a) of the Board's Biological Materials Regulations, 35 Ill. Adm. Code 1450.300(a), states as follows:

Payment of the \$0.015 per pound of PIMW transporter fee required by Section 56.6(a) of the Act shall begin on July 1, 1992. The payment shall be made on a quarterly basis with the submission of the Quarterly PIMW Report. Such payment shall be received by the Agency on or before April 15, July 15, October 15 and January 15 of each year and shall cover the three preceding calendar months.

21. Illinois EPA records indicate that MWM failed to pay the PIMW transporter fee, required by Section 56.6(a) of the Act, for the first quarter of 2003. MWM also avoided fees by not using manifests prescribed and provided by the Illinois EPA, pursuant to Section 56.4(c) of the Act, and by allowing its PIMW transportation permit to expire on June 30, 2002, rather than paying the renewal fee required by Section 56.5 of the Act.

22. By failing to pay the fees identified in paragraph 21, the Respondent has violated Section 21(k) of the Act, 415 ILCS 5/21(k) (2002), and 35 Ill. Adm. Code 1450.202 and 1450.300(a).

PRAYER FOR RELIEF

WHEREFORE, Complainant, the People of the State of Illinois, respectively request that the Board enter an order against the Respondent:

- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
- B. Finding that Respondent has violated the Act and regulations as alleged herein;
- C. Ordering Respondent to cease and desist from any further violations of the Act and associated regulations;
- D. Pursuant to Section 42(b)(1) of the Act, 415 ILCS 5/42(b)(1) (2002), impose a civil penalty of not more than the statutory maximum;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2002), awarding to Complainant its costs and reasonable attorney fees; and

F. Granting such other relief as the Board may deem appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
ex rel. LISA MADIGAN
Attorney General of the
State of Illinois

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 

THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel

SALLY A. CARTER

500 South Second Street

Springfield, Illinois 62706

217/782-9031

Dated: 3/17/04