

ILLINOIS POLLUTION CONTROL BOARD
December 6, 2007

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 07-28
) (Enforcement - Land)
PROVENA HOSPITALS, d/b/a PROVENA)
UNITED SAMARITANS MEDICAL)
CENTER, an Illinois not-for-profit)
corporation, and RESURRECTION)
CATHOLIC CEMETERY ASSOCIATION)
OF DANVILLE, ILLINOIS, an Illinois not-)
for-profit corporation,)
)
Respondents.)

OPINION AND ORDER OF THE BOARD (by A.S. Moore):

On October 24, 2006, the Office of the Attorney General, on behalf of the People of the State of Illinois (People), filed a complaint against Provena Hospitals, d/b/a Provena United Samaritans Medical Center (Provena), and Resurrection Catholic Cemetery Association of Danville, Illinois (Resurrection) (collectively, respondents). *See* 415 ILCS 5/31(c)(1) (2006); 35 Ill. Adm. Code 103.204.

The People allege that respondents violated Sections 56.1(A)(a), 56.1(A)(b), 56.1(A)(d), 56.1(A)(h), and 56.1(A)(i) of the Environmental Protection Act (Act) (415 ILCS 5/56.1(A)(a), 56.1(A)(b), 56.1(A)(d), 56.1(A)(h), and 56.1(A)(i) (2006)) and Section 1420.104 of the Board's biological materials regulations (35 Ill. Adm. Code 1420.104). The People further allege that respondents violated these provisions by causing or allowing the disposal of potentially infectious medical waste (PIMW) consisting of human pathological wastes and body parts at the cemetery; by causing or allowing the delivery or transfer of PIMW for transport without strict compliance with Board regulations, without a permit issued by the Illinois Environmental Protection Agency, and without a completed PIMW manifest; and by causing or allowing the transport of PIMW without a completed PIMW manifest and without payment of the fee required by the Act. The complaint concerns Provena's operation of a hospital at 812 North Logan Avenue, Danville, Vermilion County. The complaint also concerns Resurrection's operation of a cemetery at 818 Wendt Street, Danville, Vermilion County.

On October 10, 2007, the People and one of the two respondents, Provena, 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) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)). *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 *Commercial-News* of Danville, Illinois on October 13, 2007. The Board did not receive any requests for hearing. The Board grants the request from the People and Provena for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2006); 35 Ill. Adm. Code 103.300(b).

On October 16, 2007, the People and the other respondent, Resurrection, 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) (2006)). This filing is authorized by Section 31(c)(2) of the Act (415 ILCS 5/31(c)(2) (2006)). *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 *Commercial-News* of Danville, Illinois on October 20, 2007. The Board did not receive any requests for hearing. The Board grants the request from the People and Resurrection for relief from the hearing requirement. *See* 415 ILCS 5/31(c)(2) (2006); 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. 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 respondents' 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) (2000)). The People and Provena and Resurrection have satisfied Section 103.302. Provena does not affirmatively admit the alleged violations and agrees to pay a civil penalty of \$70,000. Resurrection does not affirmatively admit the alleged violations and agrees to pay a civil penalty of \$30,000. The Board accepts the stipulations and proposed settlements.

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

ORDER

1. The Board accepts and incorporates by reference the parties' stipulations and proposed settlements.
2. Provena must pay a civil penalty of \$70,000 no later than Monday, January 7, 2008, which is the first business day after the 30th day after the date of this order. Provena must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency and designated to the Illinois Environmental Protection Trust Fund. The case number, case name, and Provena's federal employer identification number must be included on the certified check or money order.

Resurrection must pay a civil penalty of \$30,000 no later than Monday, January 7, 2008, which is the first business day after the 30th day after the date of this order. Resurrection must pay the civil penalty by certified check or money order, payable to the Illinois Environmental Protection Agency and designated to the Illinois Environmental Protection Trust Fund. The case number, case name, and

Resurrection's federal employer identification number must be included on the certified check or money order.

3. Provena and Resurrection must send the certified check or money order to:

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

4. Provena and Resurrection must send a copy of the certified check or money order and any transmittal letter to

Environmental Bureau
500 South Second Street
Springfield, IL 62702


Kyle Davis, Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

5. Penalties unpaid within the time prescribed will accrue interest under Section 42(g) of the Environmental Protection Act (415 ILCS 5/42(g) (2006)) at the rate set forth in Section 1003(a) of the Illinois Income Tax Act (35 ILCS 5/1003(a) (2006)).
6. Provena and Resurrection 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) (2006); *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.

I, John T. Therriault, Assistant Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above opinion and order on December 6, 2007, by a vote of 4-0.

A handwritten signature in black ink, reading "John T. Therriault". The signature is written in a cursive style with a long horizontal flourish extending to the right.

John T. Therriault, Assistant Clerk
Illinois Pollution Control Board