

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)
 ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 ROXANA LANDFILL, INC.,)
 an Illinois corporation,)
)
 Respondent.)

**PCB No.
(Enforcement- Land)**

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on July 26, 2010, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, copies of which are attached hereto and herewith served upon you.

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: 

 Thomas Davis, Chief
 Assistant Attorney General
 Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: July 27, 2010

CERTIFICATE OF SERVICE

I hereby certify that I did on July 26, 2010, cause to be served by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box in Springfield, Illinois, a true and correct copy of the following instruments entitled NOTICE OF ELECTRONIC FILING, COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT upon the persons listed on the Service List.



Thomas Davis, Chief
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Roxana Landfill, Inc.
c/o Brian Konzen
Attorney at Law
1939 Delmar Avenue
P.O. Box 735
Granite City, IL 62040

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No.
)	(Enforcement- Land)
ROXANA LANDFILL, INC.,)	
an Illinois corporation,)	
)	
Respondent.)	

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2008), moves that the Illinois Pollution Control Board grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2008). In support of this motion, Complainant states as follows:

1. A Complaint and Stipulation and Proposal for Settlement are being filed simultaneously with the Illinois Pollution Control Board ("Board") in this matter.
1. The parties have reached agreement on all outstanding issues in this matter.
2. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
3. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2008).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2008).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

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

BY: _____


Thomas Davis, Chief
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: July 26, 2010

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No.
)	(Enforcement - Land)
ROXANA LANDFILL, INC.)	
an Illinois corporation,)	
)	
Respondent.)	

COMPLAINT

The PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complain of the Respondent, ROXANA LANDFILL, INC., as follows:

COUNT I
NOTIFICATION VIOLATIONS

1. On behalf of the People of the State of Illinois, Lisa Madigan, the Attorney General of the State of Illinois, brings this complaint by her own motion and at the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2008).

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 (2008), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. The Respondent, Roxana Landfill, Inc., ("Roxana") is an Illinois corporation in good standing. The Registered Agent for the corporation is CT Corporation System, 208 S. LaSalle St, Suite 814, Chicago, Illinois, 60604.

4. The Respondent is a permitted, existing municipal solid waste and non-hazardous special waste landfill ("facility") located at 4601 Cahokia Road, Roxana, Illinois, 62084.

5. The Respondent's facility operates pursuant to Illinois EPA-approved operating permit number 1990-322-LF (Log No. 2007-327), Modification No. 66.

6. Section 21 of the Act, 415 ILCS 5/21 (2008), provides in relevant part:

No person shall:

d. Conduct any waste-storage, waste-treatment, or waste-disposal operation:

1. without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; provided, however, that, except for municipal solid waste landfill units that receive waste on or after October 9, 1993, no permit shall be required for (i) any person conducting a waste-storage, waste-treatment, or waste-disposal operation for wastes generated by such person's own activities which are stored, treated, or disposed within the site where such wastes are generated, or (ii) a facility located in a county with a population over 700,000, operated and located in accordance with Section 22.38 of this Act, and used exclusively for the transfer, storage, or treatment of general construction or demolition debris;
2. in violation of any regulations or standards adopted by the Board under this Act;

* * *

e. Dispose, treat, store or abandon any waste, or transport any waste into this State for disposal, treatment, storage or abandonment, except at a site or facility which meets the requirements of this Act and of regulation and standards thereunder.

7. Section 811.311 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.311, provides, in relevant part:

- b) If methane gas levels exceed the limits specified in subsections (a)(1) or (a)(2), an owner or operator of a MSWLF unit shall:
 - 1) Notify the Agency in writing, within two business

days, of an observed exceedance; and

- 2) Implement the requirements of this Section to ensure the protection of human health.

8. Section 811.311 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.311, subsection (a)(1), provides the following limitation:

- 1) A methane concentration greater than 50 percent of the lower explosive limit in air is detected below the ground surface by a monitoring device or is detected by an ambient air monitor located at or beyond the property boundary or 30.5 meters (100 feet) from the edge of the unit, whichever is less, unless the operator can demonstrate that the detected methane concentration is not attributable to the facility;

9. On July 10, 2008, the Illinois EPA conducted a record review of the annual reports submitted by the facility.

10. The annual reports reported that the facility had detected 36 separate occurrences from 2003 through 2007 where methane concentrations were greater than 50% of the lower explosive limit in air at or below ground monitoring devices located outside the waste boundary ("the occurrences"). The occurrences were on:

<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
01/15/03	04/07/04	02/21/05	03/02/06	01/02/07
04/01/03	05/17/04	03/08/05	04/05/06	02/06/07
11/10/03	06/04/04	04/05/05	07/12/06	04/06/07
12/08/03	07/12/04	05/12/05	08/07/06	05/15/07
12/08/03	08/10/04	06/03/05	09/06/06	06/01/07
	09/01/04	12/05/05	09/06/06	07/09/07
	12/09/04		09/06/06	07/09/07
			11/16/06	08/15/07
				09/13/07
				12/31/07

11. The facility did not notify the occurrences to the Illinois EPA within two business days of the observed exceedances, thereby violating Section 811.311(b)(1) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.311(b)(1).

12. By failing to timely notify the Illinois EPA of the occurrences, the facility failed to implement regulatory requirements to ensure the protection of human health, thereby violating Section 811.311(b)(2) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 811.311(b)(2).

13. As a result, the Respondent has conducted any waste-storage, waste-treatment, or waste-disposal operation in violation of any regulations or standards adopted by the Board and has disposed, treated, stored or abandoned any waste at a facility which does not meet the requirements of the Act and of the regulations and standards thereunder, thereby violating Sections 21(d)(2) and (e) of the Act, 415 ILCS 5/21(d)(2) and (e) (2008).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, Roxana Landfill, Inc.:

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

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

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

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation and an additional penalty of ten thousand dollars (\$10,000.00) for each day during which the violations continued;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), awarding to the

Complainant its costs and reasonable attorney's fees; and

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

COUNT II
PERMIT VIOLATION

1-10. The Complainant realleges and incorporates herein by reference paragraphs 1 through 10 of Count I as paragraphs 1 through 10 of this Count II.

- 11. Operating Condition Part X, Section 7(a), of the facility's operating permit states:

in the event of any of the occurrences listed below, the operator shall, within 180 days of the occurrence, submit to the Illinois EPA an application for a significant modification either proposing a revision to the gas collection/management system or demonstrating that the new unit is not the cause of the occurrence.

- a. A methane concentration greater than 50% of the explosive limit in air is detected in any of the below ground monitoring devices outside the waste boundary.

* * *

12. The facility's operator did not submit an application to the Illinois EPA for significant modification within the required 180 days of the occurrences, thereby violating Part X, Section 7(a), of operating permit number 1990-322-LF (Log No. 2007-327), Modification No. 66.

13. By conducting a waste-storage, waste-treatment, or waste-disposal operation in violation of a condition imposed within its operating permit, the Respondent violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2008).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, the People of the State of Illinois, respectfully requests that the Board enter an order against the Respondent, Roxana Landfill, Inc.:

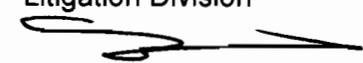
- A. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;

- B. Finding that the Respondent has violated the Act as alleged herein;
- C. Ordering the Respondent to cease and desist from any further violations of the Act;
- D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2008), imposing a civil penalty of up to fifty thousand dollars (\$50,000.00) for each violation, and an additional penalty of ten thousand dollars (\$10,000.00) for each day during which the violations continued;
- E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2008), awarding to the Complainant its costs and reasonable attorney's 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

Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: 7/26/10

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
v.)	PCB No.
)	(Enforcement - Land)
ROXANA LANDFILL, INC.)	
an Illinois corporation,)	
)	
Respondent.)	

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency ("Illinois EPA"), and ROXANA LANDFILL, INC. ("Respondent") ("Parties to the Stipulation"), have agreed to the making of this Stipulation and Proposal for Settlement ("Stipulation") and submit it to the Illinois Pollution Control Board ("Board") for approval. This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Board's approval of this Stipulation and issuance of relief. None of the facts stipulated herein shall be introduced into evidence in any other proceeding regarding the violations of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 *et seq.* (2008), and the Board's Regulations, alleged in the Complaint except as otherwise provided herein. It is the intent of the Parties to the Stipulation that it be a final adjudication of this matter.

I. STATEMENT OF FACTS

A. Parties

1. Simultaneous with the filing of this Stipulation, a Complaint is being filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2008), against the Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2008).

3. At all times relevant to the Complaint, Respondent was and is an Illinois corporation that is authorized to transact business in the State of Illinois. At all times relevant to the Complaint, Respondent owned a permitted, existing municipal solid waste and non-hazardous special waste landfill located at 4601 Cahokia Road, Roxana, Madison County, Illinois ("site").

4. The Respondent's facility operates pursuant to Illinois EPA-approved operating permit number 1990-322-LF (Log No. 2007-327), Modification No. 66.

5. On July 10, 2008, the Illinois EPA conducted a record review of the annual reports submitted by the facility.

6. The annual reports reported that the facility had detected 36 separate occurrences from 2003 through 2007 where methane concentrations were greater than 50% of the lower explosive limit in air at or below ground monitoring devices located outside the waste boundary ("the occurrences"). The occurrences were on:

<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
01/15/03	04/07/04	02/21/05	03/02/06	01/02/07
04/01/03	05/17/04	03/08/05	04/05/06	02/06/07
11/10/03	06/04/04	04/05/05	07/12/06	04/06/07
12/08/03	07/12/04	05/12/05	08/07/06	05/15/07
12/08/03	08/10/04	06/03/05	09/06/06	06/01/07
	09/01/04	12/05/05	09/06/06	07/09/07
	12/09/04		09/06/06	07/09/07
			11/16/06	08/15/07
				09/13/07
				12/31/07

7. The facility did not notify the occurrences to the Illinois EPA within two business days of the observed exceedances.

8. The facility's operator did not submit an application to the Illinois EPA for

significant modification within 180 days of the occurrences.

B. Allegations of Non-Compliance

Complainant contends that the Respondent has violated the following provisions of the Act and Board regulations:

- Count I: Section 811.311(b)(1) of the Board's Waste Disposal Regulations,
35 Ill. Adm. Code 811.311(b)(1)
- Section 811.311(b)(2) of the Board's Waste Disposal Regulations,
35 Ill. Adm. Code 811.311(b)(2)
- Sections 21(d)(2) and (e) of the Act, 415 ILCS 5/21(d)(2) and (e) (2008)
- Count II: Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2008)
- [by violating Part X, Section 7(a), of operating permit number 1990-322-LF (Log No. 2007-327), Modification No. 66]

C. Non-Admission of Violations

The Respondent represents that it has entered into this Stipulation for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Stipulation and complying with its terms, the Respondent does not affirmatively admit the allegations of violation within the Complaint and referenced within Section I.B herein, and this Stipulation shall not be interpreted as including such admission.

D. Compliance Activities to Date

The Respondent implemented changes to the landfill standard operating procedures and made changes to the design and operation of its gas collection system. The Respondent submitted the required application for significant modification.

II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation. This Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations for all violations alleged in the Complaint in this matter, for purposes of Sections 39 and 42 of the Act, 415 ILCS 5/39 and 42 (2008).

III. IMPACT ON THE PUBLIC RESULTING FROM ALLEGED NON-COMPLIANCE

Section 33(c) of the Act, 415 ILCS 5/33(c)(2008), provides as follows:

In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing upon the reasonableness of the emissions, discharges, or deposits involved including, but not limited to:

1. the character and degree of injury to, or interference with the protection of the health, general welfare and physical property of the people;
2. the social and economic value of the pollution source;
3. the suitability or unsuitability of the pollution source to the area in which it is located, including the question of priority of location in the area involved;
4. the technical practicability and economic reasonableness of reducing or eliminating the emissions, discharges or deposits resulting from such pollution source; and
5. any subsequent compliance.

In response to these factors, the Parties to the Stipulation state the following:

1. The parties have different views of whether there was a threat to human health and the environment as a result of the violations alleged in this case. Complainant maintains

that human health and the environment were threatened with a moderate potential for harm by Respondent's alleged violations. Respondent does not admit to any violations, and does not admit that there was any threat to either human health or the environment.

2. There is social and economic benefit to the facility.

3. Operation of the facility is suitable for the area in which it occurs.

4. Implementing changes to the landfill standard operating procedures, making changes to the design and operation of the gas collection system, and submitting the required application for significant modification, were all technically practicable and economically reasonable.

5. The Respondent has subsequently complied with the Act and the Board Regulations.

IV. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2008), provides as follows:

In determining the appropriate civil penalty to be imposed under . . . this Section, the Board is authorized to consider any matters of record in mitigation or aggravation of penalty, including but not limited to the following factors:

1. the duration and gravity of the violation;
2. the presence or absence of due diligence on the part of the respondent in attempting to comply with requirements of this Act and regulations thereunder or to secure relief therefrom as provided by this Act;
3. any economic benefits accrued by the respondent because of delay in compliance with requirements, in which case the economic benefits shall be determined by the lowest cost alternative for achieving compliance;
4. the amount of monetary penalty which will serve to deter further violations by the respondent and to otherwise aid in enhancing voluntary compliance with this Act by the respondent and other persons similarly subject to the Act;
5. the number, proximity in time, and gravity of previously adjudicated violations of this Act by the respondent;

6. whether the respondent voluntarily self-disclosed, in accordance with subsection i of this Section, the non-compliance to the Agency; and
7. whether the respondent has agreed to undertake a "supplemental environmental project," which means an environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action brought under this Act, but which the respondent is not otherwise legally required to perform.

In response to these factors, the Parties to the Stipulation state as follows:

1. The Respondent failed to notify the occurrences to the Illinois EPA within two business days of the observed exceedances, and violated a permit provision by failing to submit an application to the Illinois EPA for significant modification within the required 180 days of the occurrences. The violations began on or around January 17, 2003, and were resolved at various times and by November 2008.

2. The Respondent was diligent in attempting to come back into compliance with the Act and Board regulations once the Illinois EPA notified it of its noncompliance.

3. The economic benefit in this matter is nominal.

4. The Complainant has determined, based upon the specific facts of this matter, that a penalty of ten thousand dollars (\$10,000.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To the Complainant's knowledge, the Respondent has no previously adjudicated violations of the Act.

6. Self-disclosure is not at issue in this matter.

7. The settlement of this matter does include a supplemental environmental project consisting of landfill disposal services.

V. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Ten Thousand Dollars

(\$10,000.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

B. Interest and Default

1. If the Respondent fails to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondent shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, the Complainant shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

2. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by the Respondent not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

C. Payment Procedures

All payments required by this Stipulation shall be made by certified check or money order payable to the Illinois EPA for deposit into the Environmental Protection Trust Fund ("EPTF"). Payments shall be sent by first class mail and delivered to:

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

The name, case number and the Respondent's federal tax identification number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Jennifer S. Janasie
Environmental Bureau
Illinois Attorney General's Office
500 South Second Street

Springfield, Illinois 62706

D. Future Compliance

1. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, shall have the right of entry into and upon the Respondent's facility which is the subject of this Stipulation, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives, may take photographs, samples, and collect information, as they deem necessary.

2. This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board Regulations.

3. The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

E. Supplemental Environmental Project

1. In order to promote the goals of the Act to restore, protect and enhance the quality of the environment, Respondent shall perform the following supplemental environmental project ("SEP"). The settlement value of the SEP is Eighteen Thousand Dollars (\$18,000.00) and will offset penalties sought by the Complainant and the Illinois EPA in this matter. The Parties to the Stipulation agree that this SEP consists of waste disposal services as follows:

a. Respondent shall provide the Complainant with a total of 450 tons of landfill capacity, at a gate rate of \$40.00 per ton, for the disposal of non-hazardous special waste and/or municipal solid waste at the Roxana Landfill or any other permitted landfill operated by Respondent.

b. Complainant shall notify Respondent that it intends to utilize a portion of the landfill capacity at least 3 business days prior to the date it will be needed for waste disposal. Respondent shall take logistics into consideration and direct Complainant to transport the waste to either the Roxana Landfill or a more mutually convenient landfill.

c. Upon disposal of any SEP waste, Respondent shall prepare a gate receipt evidencing the amount of waste received and the date of receipt. Copies of all of the receipts shall be forwarded to:

Paul M. Purseglove, Manager
Illinois EPA Field Operations Section
1021 North Grand Ave East
P.O. Box 19276
Springfield, Illinois 62794-9276

d. Complainant shall utilize the landfill capacity within five years from the date of a Board Order accepting this Stipulation.

2. Upon completion of the SEP, the Respondent shall submit a project completion report, including a summary of all services, to the contact persons identified in Section V.G for review and confirmation that the SEP was performed pursuant to this Stipulation. The project completion report shall include the following certification by a responsible corporate official of the Respondent:

I certify under penalty of law that this document was prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted based on my inquiry of those persons directly responsible for gathering the information, and that the information submitted in or accompanying this notification of final compliance is to the best of my knowledge true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and or imprisonment for knowing violations.

3. By signature on this Stipulation, the Respondent certifies that, as of the date of entry of this Order, it is not required to perform or develop the foregoing SEP by any federal,

state or local law or regulation, nor is it required to perform or develop the SEP by agreement or injunctive relief in any other case. The Respondent further certifies that it has not received, and is not presently negotiating to receive credit for, the SEP in any other enforcement action.

4. Any public statement, oral or written, in print, film or other media, made by the Respondent making reference to any SEP shall include the following language: "This project was undertaken in connection with the settlement of an enforcement action taken by the Illinois Attorney General and the Illinois EPA for alleged violations of the Illinois Environmental Protection Act and regulations promulgated thereunder."

F. Release from Liability

In consideration of the Respondent's payment of the \$10,000.00 penalty, completion of the supplemental environmental project outlined in Section V.E. above, and its commitment to cease and desist as contained in Section V.D. above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for the violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed simultaneous with the filing of this Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

- a. criminal liability;
- b. liability for future violation of state, federal, local, and common laws and/or regulations;
- c. liability for natural resources damage arising out of the alleged violations; and
- d. liability or claims based on the Respondent's failure to satisfy the requirements of

this Stipulation.

Nothing in this Stipulation is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State of Illinois may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, or entity other than the Respondent.

G. Correspondence, Reports and Other Documents

Any and all correspondence, reports and any other documents required under this Stipulation, except for penalty payments, shall be submitted as follows:

As to the Complainant

Jennifer S. Janasie
Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706

Melanie Jarvis
Assistant Counsel
Illinois EPA
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

Paul M. Purseglove
Manager
Illinois EPA Field Operations Section
1021 North Grand Ave East
P.O. Box 19276
Springfield, Illinois 62794-9276

As to the Respondent

Brian Konzen
1939 Delmar Avenue
P.O. Box 735
Granite City, Illinois 62040

John Nickerson, Corporate Counsel
Roxana Landfill, Inc.
Republic Services, Inc.
18500 North Allied Way
Phoenix, Arizona 85054

H. Enforcement and Modification of Stipulation

Upon the entry of the Board's Order approving and accepting this Stipulation, that Order is a binding and enforceable order of the Board and may be enforced as such through any and all available means.

I. Execution of Stipulation

The undersigned representatives for the Parties to the Stipulation certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Stipulation and to legally bind them to it.

WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS,

FOR THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

LISA MADIGAN
Attorney General
State of Illinois

DOUGLAS P. SCOTT, Director
Illinois Environmental Protection Agency

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

BY: _____
THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

BY: 
JOHN J. KIM
Chief Legal Counsel

DATE: 7/26/10

DATE: 7/22/10

ROXANA LANDFILL, INC.

DATE: 6/16/10

BY: 
Name: Tim Trost
Title: Vice President