

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Complainant,)	
)	
vs.)	PCB No. 11-14
)	(Enforcement)
WASTE MANAGEMENT OF ILLINOIS,)	
INC., an Illinois corporation, d/b/a)	
COTTONWOOD HILLS LANDFILL,)	
)	
Respondent.)	

NOTICE OF ELECTRONIC FILING

To: See Attached Service List

PLEASE TAKE NOTICE that on October 26, 2010, I electronically filed with the Clerk of the Pollution Control Board of the State of Illinois, a MOTION TO CLARIFY SETTLEMENT, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

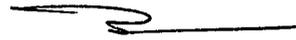
MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

BY: 
THOMAS DAVIS, Chief
Assistant Attorney General
Environmental Bureau

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

CERTIFICATE OF SERVICE

I hereby certify that I did on October 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 and MOTION TO CLARIFY SETTLEMENT upon the persons listed on the Service List.



Thomas Davis
Assistant Attorney General

This filing is submitted on recycled paper.

SERVICE LIST

Waste Management of Illinois, Inc.
c/o Dennis M. Wilt
Vice President & General Counsel
Midwest Group
720 E. Butterfield Road
Lombard, IL 60148

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Complainant,)	
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vs.)	PCB No. 11-14
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WASTE MANAGEMENT OF ILLINOIS,)	
INC. d/b/a COTTONWOOD HILLS)	
LANDFILL,)	
)	
Respondent.)	

MOTION TO CLARIFY SETTLEMENT

NOW COMES the Complainant, PEOPLE OF THE STATE OF ILLINOIS, by its attorney, LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Sections 101.500 and 103.302, moves to clarify the applicability of the stipulation and proposal for settlement filed on September 24, 2010. In support of this clarification, the Complainant states as follows:

1. The contents of a proposed stipulation and proposal for settlement are governed by Section 103.302. The contents of the settlement documents filed by the Attorney General's Office also typically includes a summary of the violations alleged in the complaint pleadings in addition to the "material facts pertaining to the nature, extent, and causes of the alleged violations proposed to be settled," required by Section 103.302(a). This summary of alleged violations is not explicitly required by Section 103.302.

2. The complaint in this matter pleads six counts but the summary of alleged violations provided in the stipulation and proposal for settlement inadvertently omitted the permit violations alleged in count VI of the complaint. After review of the filings, the Board

issued an order on October 7, 2010 stating that “there is an inconsistency between the complaint and the stipulation that must first be reconciled” and directing 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.”

3. The stipulation and proposal for settlement inadvertently omitted a summary of the violations alleged in count VI of the Complaint but still complies with Section 103.302. The Board’s recent order does not reference this section of its procedural rules in expressing its determination of an “inconsistency” between the complaint and the settlement. This motion to clarify respectfully suggests that, unless the stipulation is actually found to be deficient regarding the requirements of Section 103.302, there is no need for an amended stipulation and proposed settlement. As stated in the settlement document, it is the intent of the parties that the stipulation be a final adjudication of this matter. The release of liability within the terms of settlement section of the stipulation and proposed settlement explicitly covers the violations “expressly specified” in the complaint, i.e. all six counts. The settlement’s release of liability pertains directly to the allegations of violation in the complaint; the scope of such release is determined by the complaint itself and not the conclusory language of the summary provided in the settlement. The perceived inconsistency is of no consequence.

4. There is no need for an amended complaint. The People do not wish to take count VI to hearing. Count VI is included in the settlement.

WHEREFORE, Plaintiff respectfully prays that the Board adopt and accept the previously filed stipulation and proposal for settlement.

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
Environmental Bureau
Assistant Attorney General

Attorney Reg. No. 3124200
500 South Second Street
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Dated: October 26, 2010