

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	PCB No. 2020-098
	)	
AUX SABLE LIQUID PRODUCTS, INC., a	)	(Enforcement- Land)
Delaware corporation, AUX SABLE LIQUID	)	
PRODUCTS LP, a Delaware limited partnership,	)	
CLEAN HARBORS ENVIRONMENTAL	)	
SERVICES, INC., a Massachusetts corporation,	)	
and WASTE MANAGEMENT OF	)	
ILLINOIS, INC., a Delaware corporation,	)	
	)	
Respondents.	)	
	)	
	)	

NOTICE OF FILING

PLEASE TAKE NOTICE that on Friday, July 17, 2020, Complainant, PEOPLE OF THE STATE OF ILLINOIS, through the undersigned, filed with the Clerk of the Illinois Pollution Control Board, a true and correct copy of the attached Motion for Relief from Hearing and Stipulation and Proposal for Settlement and hereby served upon you.

PEOPLE OF THE STATE OF ILLINOIS,  
BY KWAME RAOUL, Attorney General of  
the State of Illinois,

/s/ Elizabeth Dubats  
Assistant Attorney General  
Environmental Bureau  
69 W. Washington Street, 18<sup>th</sup> Floor  
Chicago, Illinois 60602  
(312) 814-2069  
[edubats@atg.state.il.us](mailto:edubats@atg.state.il.us)

**Service List**

For the Respondents

AUX SABLE LIQUID PRODUCTS, INC.  
AUX SABLE LIQUID PRODUCTS LP

Jennifer M. Martin  
HeplerBroom LLC  
4340 Acer Grove Drive,  
Springfield, IL 62711  
[Jennifer.Martin@heplerbroom.com](mailto:Jennifer.Martin@heplerbroom.com)

CLEAN HARBORS ENVIRONMENTAL SERVICES, INC.

Timmery Ann Fitzpatrick  
Assistant General Counsel  
Clean Harbors Environmental Services, Inc  
P.O. Box 9149  
42 Longwater Drive  
Norwell, MA 02061-9149  
[fitzpatrick.timmery@cleanharbors.com](mailto:fitzpatrick.timmery@cleanharbors.com)

WASTE MANAGEMENT OF ILLINOIS

Molly Snittjer  
Nijman Franzetti LLP  
10 S. LaSalle Street  
Suite 3600  
Chicago, IL 60603  
[ms@nijmanfranzetti.com](mailto:ms@nijmanfranzetti.com)

**CERTIFICATE OF SERVICE**

I, Elizabeth Dubats, Assistant Attorney General, do certify that I caused to be served this 17<sup>th</sup> day of July, 2020, the Notice of Filing, Motion for Relief for Hearing and Stipulation and Proposal for Settlement in this matter upon the persons listed on the service list via email with return receipt.

/s/ Elizabeth Dubats

Elizabeth Dubats

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**MOTION FOR RELIEF FROM HEARING REQUIREMENT**

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, 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) (2018), moves that the Illinois Pollution Control Board (“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) (2018). In support of this motion, Complainant states as follows:

1. On June 30, 2020, Complainant filed a Complaint in the above captioned matter.
2. The Complaint in this matter alleges violations of Sections 21(d)(1), (e), (f)(1), 21(g)(2) of the Act, 415 ILCS 5/(d)(1), (e), (f)(1), 21(g)(2) (2018), Sections 723.120(a) and 703.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 723.120(a) and 703.121(a), and conditions III.D.2.g and III.D.2.j of Permit No. B-141R-M-126 as to Respondents Clean Harbors Environmental Services, Inc. and Waste Management of Illinois.

3. Complainant and Respondents Clean Harbors Environmental Services, Inc. and Waste Management of Illinois have reached agreement on all outstanding issues with respect to the Counts II, IV, V and VI of the Complaint. Counts I and III as to Respondents Aux Sable Liquid Products, Inc. and Aux Sable Liquid Products LP remain at issue.

4. This agreement is presented to the Board in a Stipulation and Proposal for Settlement as to Respondents Clean Harbors Environmental Services, Inc. and Waste Management of Illinois filed this same date.

5. Complainant and Respondents Clean Harbors Environmental Services, Inc. and Waste Management of Illinois 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) (2018).

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) (2018).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

KWAME RAOUL  
Attorney General  
State of Illinois

BY: /s/ Elizabeth Dubats  
Elizabeth Dubats  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602  
(312) 814-2069

Primary e-mail address: edubats@atg.state.il.us

Secondary e-mail address: mcacaccio@atg.state.il.us

DATE: July 17, 2020

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**STIPULATION AND PROPOSAL FOR SETTLEMENT AS TO RESPONDENTS**  
**CLEAN HARBORS ENVIRONMENTAL SERVICES, INC. AND WASTE**  
**MANAGEMENT OF ILLINOIS, INC.**

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by KWAME RAOUL, Attorney General of the State of Illinois, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA”), and CLEAN HARBORS ENVIRONMENTAL SERVICES, INC. and WASTE MANAGEMENT OF ILLINOIS, INC. (“Respondents” or separately “Clean Harbors” and “Waste Management”), (collectively “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.* (2018), 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. On June 30, 2020, a Complaint was filed on behalf of the People of the State of Illinois by Kwame Raoul, Attorney General of the State of Illinois, on his own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31 (2018), against the Respondent Aux Sable Liquid Products, Inc., Respondent Aux Sable Liquid Products LP (together the "Aux Sable Respondents"), and Respondents Clean Harbors and Waste Management. This Stipulation and Proposal for Settlement resolves Complainant's allegations of violations against Respondents Clean Harbors and Waste Management only.

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 (2018).

3. Respondent Clean Harbors was and is a Massachusetts corporation that is authorized to transact business in the State of Illinois.

4. Respondent Waste Management was and is a Delaware corporation that is authorized to transact business in the State of Illinois

5. Respondent Clean Harbors provides a range of environmental services such as hazardous waste management, emergency spill response, industrial cleaning and maintenance, and recycling services.

6. Respondent Waste Management owns and operates the Laraway Recycling and Disposal Facility located at 21233 West Laraway Road, Joliet, Will County, Illinois 60436 ("Laraway Facility").



7. On March 9, 2018, a roll-off box containing 4.38 tons of molecular sieve material generated by Aux Sable Respondents was present at Aux Sable Respondents' natural gas liquids extraction and fractionation facility ("Aux Sable Facility"). The material in the roll-off box had a benzene concentration of 1.06 milligrams per liter ("mg/l").

8. On March 9, 2018, Respondent Clean Harbors hauled the roll-off box containing the benzene-contaminated molecular sieve material to the Laraway Facility for disposal, a facility that is not permitted to accept hazardous waste.

**B. Allegations of Non-Compliance**

Complainant contends that the Respondents have violated the following provisions of the Act and Board regulations (the remaining Counts of the Complaint not listed below pertain to Aux Sable Respondents):

**Count II**

(as to Clean Harbors): Improper disposal of hazardous waste in violation of Section 21(e) of the Act, 415 ILCS 5/21(e) (2018).

**Count IV**

(as to Clean Harbors): Violations applicable to transporters of hazardous waste: transporting hazardous waste without a manifest in violation of Section 723.120(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 723.120(a) while conducting a hazardous waste-transportation operation in violation of Section 21(g)(2) of the Act, 415 ILCS 5/21(g)(2) (2018).

**Count V**

(as to Waste Management): Landfill Operating Permit Violations: Accepting hazardous waste and special waste in violation of conditions III.D.2.g and III.D.2.j of Permit No. B-141R-M-126, in violation of Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2018).

**Count VI**

(as to Waste Management): Accepting hazardous waste without a RCRA hazardous waste

permit in violation of Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1) (2018), and Section 703.121(a) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 703.121(a).

**C. Non-Admission of Violations**

Respondents Clean Harbors and Waste Management represent that they have 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 Respondents do 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**

1. On March 9, 2018, Clean Harbors and Aux Sable Respondents contacted the Illinois EPA to report the disposal of the benzene-contaminated molecular sieve material. Waste Management also contacted Illinois EPA upon being informed of the nature of the material disposed. All parties participated in discussions with Illinois EPA to determine the measures necessary to remove the material from the Laraway Facility.

2. On April 3, 2018, Clean Harbors, Waste Management, and Aux Sable Respondents submitted to Illinois EPA, for review and approval, a work plan for the removal of the contaminated molecular sieve material from the Laraway Facility.

3. On April 18, 2018, Illinois EPA approved the work plan for removal of the contaminated molecular sieve material from the Laraway Facility.

4. On April 25 and 26, 2018, Clean Harbors excavated approximately 175 cubic yards of material mixed with the contaminated molecular sieve material from the Laraway Facility. The excavated material was then transported to a facility in Ontario, Canada that is

authorized to receive hazardous waste.

## II. APPLICABILITY

This Stipulation shall apply to and be binding upon the Parties to the Stipulation. The Respondents shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of their 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 Respondents Clean Harbors and Waste Management 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 (2018).

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

Section 33(c) of the Act, 415 ILCS 5/33(c) (2018), 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. Human health and the environment were threatened and the Illinois EPA's regulatory programs were hindered by the Respondents' violations.
2. The pollution source has social and economic value.
3. Operation of the facility was and is suitable for the area in which it is located.
4. Compliance with the Act and Board regulations applicable to transporting hazardous waste and accepting hazardous waste for disposal is both technically practicable and economically reasonable.
5. Respondents have 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) (2018), 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;

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; and
8. whether the respondent has successfully completed a Compliance Commitment Agreement under subsection (a) of Section 31 of this Act to remedy the violations that are the subject of the complaint.

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

1. Respondent Clean Harbors transported hazardous waste from the Aux Sable Facility without a hazardous waste manifest and disposed of that hazardous waste at a landfill that was not permitted to accept hazardous waste. Respondent Waste Management accepted hazardous waste and special waste in violation of its Illinois EPA landfill operating permit and the Act. The violations began on or around March 9, 2018, and were fully resolved by April 26, 2018.
2. Respondents were diligent in removing the waste and coming back into compliance with the Act and Board regulations.
3. The civil penalties take into account that costs of removal exceeded any potential economic benefit realized by the Respondents as a result of avoided or delayed compliance.
4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Fourteen Thousand Seven Hundred Fifty Dollars (\$14,750.00) as to Clean Harbors and Waste Management each (\$29,500.00 total) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.
5. Respondents have the following previously adjudicated violations of the Act:
  - a. Between 2006 and 2019, the People of the State of Illinois brought three enforcement actions against Waste Management which resulted in settlement agreements.

b. In 2015, the People of the State of Illinois brought one enforcement action against Clean Harbors which resulted in a settlement agreement.

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

7. The settlement of this matter does not include a supplemental environmental project.

8. A Compliance Commitment Agreement was not at issue in this matter.

## V. TERMS OF SETTLEMENT

### A. **Penalty Payment**

1. Respondent Clean Harbors shall pay a civil penalty in the sum of Fourteen Thousand Seven Hundred Fifty Dollars (\$14,750.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

2. Respondent Waste Management shall pay a civil penalty in the sum of Fourteen Thousand Seven Hundred Fifty Dollars (\$14,750.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation.

### B. **Interest and Default**

1. If the Respondents fail to make any payment required by this Stipulation on or before the date upon which the payment is due, the Respondents 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 Respondents 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**

1. 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, Illinois 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order.

3. A copy of the certified check or money order and any transmittal letter shall be sent to:

Elizabeth Dubats  
Assistant Attorney General  
Environmental Bureau  
Illinois Attorney General's Office  
69 W. Washington Street, Suite 1800  
Chicago, Illinois 60602

**D. Future Compliance**

1. In addition to any other authorities, the Illinois EPA, its employees and representatives, and the Attorney General, his employees and representatives, shall have the right of entry into and upon the Respondents' facilities which are 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, his 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 Respondents 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 Respondents shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint.

**E. Release from Liability**

In consideration of Respondent Clean Harbors' payment of the \$14,750.00 civil penalty, Respondent Waste Management's payment of the \$14,750.00 civil penalty, their commitment to cease and desist as contained in Section V.D.3 above, and upon the Board's approval of this Stipulation, the Complainant releases, waives and discharges Respondent Clean Harbors and Respondent Waste Management 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 on June 30, 2020. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against Respondent Clean Harbors and Respondent Waste Management 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 Respondents' 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 Respondent Clean Harbors or Respondent Waste Management.

**F. Enforcement 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.

**G. 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.

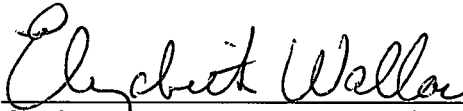
WHEREFORE, the Parties to the Stipulation request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

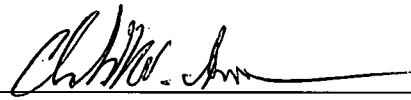
PEOPLE OF THE STATE OF ILLINOIS  
KWAME RAOUL  
Attorney General  
State of Illinois

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

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

JOHN J. KIM, Director  
Illinois Environmental Protection Agency

BY:   
ELIZABETH WALLACE, Chief  
Assistant Attorney General  
Environmental Bureau

BY:   
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: 7/15/20

DATE: 7/17/2020

RESPONDENT

RESPONDENT

CLEAN HARBORS  
ENVIRONMENTAL SERVICES, INC.

WASTE MANAGEMENT OF ILLINOIS, INC.

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Its

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\_\_\_\_\_

\_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

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Attorney General  
State of Illinois

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

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Environmental Enforcement/  
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Illinois Environmental Protection Agency

BY: \_\_\_\_\_  
ELIZABETH WALLACE, Chief  
Assistant Attorney General  
Environmental Bureau

BY: \_\_\_\_\_  
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

RESPONDENT

RESPONDENT

CLEAN HARBORS  
ENVIRONMENTAL SERVICES, INC.

WASTE MANAGEMENT OF ILLINOIS, INC.

BY: *Paul F. Connor*

BY: \_\_\_\_\_

Its

Its

*Sr. Vice President, Compliance*

DATE: *July 6, 2020*

DATE: \_\_\_\_\_

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

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

KWAME RAOUL  
Attorney General  
State of Illinois

MATTHEW J. DUNN, Chief  
Environmental Enforcement/  
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JOHN J. KIM, Director  
Illinois Environmental Protection Agency

BY: \_\_\_\_\_  
ELIZABETH WALLACE, Chief  
Assistant Attorney General  
Environmental Bureau

BY: \_\_\_\_\_  
CHARLES W. GUNNARSON  
Chief Legal Counsel

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

RESPONDENT

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CLEAN HARBORS  
ENVIRONMENTAL SERVICES, INC.

WASTE MANAGEMENT OF ILLINOIS, INC.

BY: \_\_\_\_\_

BY:  \_\_\_\_\_

Its \_\_\_\_\_

Its \_\_\_\_\_

\_\_\_\_\_

Assistant Secretary/ Senior Legal Counsel

DATE: \_\_\_\_\_

DATE: June 30, 2020