BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois,	)	
Complainant,	)	
-vs-	)	PCB No. 04-207
	)	(Enforcement)
EDWARD PRUIM, an individual, and ROBERT PRUIM, an individual,	)	
Respondents.	)	

NOTICE OF FILING

PLEASE TAKE NOTICE that we have today, May 21, 2004, filed with the Office of the Clerk of the Illinois Pollution Control Board an original and nine copies of our Complaint, a copy of which is attached herewith and 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 the 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.

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General of the
State of Illinois

BY: _____

CHRISTOPHER GRANT
Assistant Attorney General
Environmental Bureau
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COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion, complains of Respondents, EDWARD PRUIM, an individual, and ROBERT PRUIM, an individual, as follows:

COUNT I
FAILURE TO ADEQUATELY MANAGE REFUSE AND LITTER

1. This count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion, pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2002).

2. Respondent EDWARD PRUIM is an Illinois resident.

3. Respondent ROBERT PRUIM is an Illinois resident.

4. At all times relevant to this Complaint, the Respondents managed, operated and co-owned Community Landfill Company("CLC"), an Illinois corporation. CLC is the permitted operator of the Morris Community Landfill, 1501 Ashley Road, Morris, Grundy County, Illinois, ("landfill" or "site").

5. The landfill consists of approximately 119 acres within

the Northwest 1/4 of Section 2 of the Northeast 1/4 of Section 3, Township 33 North Range 7 East, and in the Southeast 1/4 of Section 34 and the Southwest 1/4 of Section 35, Township 34 North Range 7 East, Grundy County, Illinois.

6. The landfill is divided into two parcels, designated Parcel A and Parcel B.

7. Parcel A is approximately 55 acres in size, and is currently accepting waste.

8. Parcel B is approximately 64 acres in size.

9. At all times relevant to the Complaint, Edward Pruim and Robert Pruim were responsible for, and did, sign and submit all permit applications and reports to the Illinois Environmental Protection Agency ("Illinois EPA") related to the landfill, jointly directed and managed CLC's landfill operations, caused and allowed the deposit of waste in the landfill, negotiated and arranged for surety bonds and letters of credit relating to the landfill, and were responsible for ensuring CLC's compliance with pertinent environmental laws and regulations.

10. Section 3.185 of the Act, 415 ILCS 5/3.185 (2002), provides the following definition:

> "DISPOSAL" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste or hazardous waste into or on any land or water or into any well so that such waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

11. Section 3.270 of the Act, 415 ILCS 5/3.270 (2002), provides the following definition:

> "LANDSCAPE WASTE" means all accumulations of grass or

shrubbery, cuttings, leaves, tree limbs and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees.

12. Section 3.315 of the Act, 415 ILCS 5/3.315 (2002), provides the following definition:

> "PERSON" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust estate, political subdivision, state agency, or any other legal entity, or their legal representative, agent or assigns.

13. The Respondents are "person[s]" as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2002).

14. Section 3.445 of the Act, 415 ILCS 5/3.445 (2002), provides the following definition:

> "SANITARY LANDFILL" means a facility permitted by the Agency for the disposal of waste on land meeting the requirements of the Resource Conservation and Recovery Act, P.L. 94-580, and regulations thereunder, and without creating nuisances or hazards to public health or safety by confining the refuse to the smallest practical volume and covering it with a layer of earth at the conclusion of each day's operation, or by such other methods and intervals as the Board may provide by regulation.

15. Section 3.535 of the Act, 415 ILCS 5/3.535 (2002), provides the following definition:

> "WASTE" means any garbage, sludge from a waste treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.94, or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, or source, special nuclear, or by-product materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 921) or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87) or the rules and

regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto.

16. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2002), provides, as follows:

No person shall:

* * *

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

* * *

2. In violation of any regulations or standards adopted by the Board under this Act; or

* * *

17. On at least the following dates, the Illinois EPA conducted an inspection of the site: April 7, 1994, March 22, 1995, May 22, 1995, March 5, 1997, July 28, 1998, November 19, 1998, March 31, 1999, May 11, 1999 and July 20, 1999.

18. During the April 7, 1994, inspection, litter was observed in the perimeter drainage ditch at the southwest portion of Parcel B and on the southwest slope of Parcel B.

19. During the March 22, 1995, inspection, the Illinois EPA inspector observed refuse in a perimeter ditch and in a retention pond at the landfill.

20. During the May 22, 1995, inspection, the Illinois EPA inspector observed refuse and litter in the perimeter ditches.

21. Also during the May 22, 1995 inspection, the Illinois EPA inspector observed three eroded areas where leachate seeps had exposed previously covered refuse.

22. During the July 28, 1998 inspection, there was uncovered

waste from previous operating days in parcel A.

23. On November 19, 1998 and March 31, 1999, the landfill was accepting waste, and on March 31, 1999, there was uncovered refuse on Parcel B, and blowing uncovered litter on Parcel A.

24. On May 11, 1999, the landfill was accepting waste, and there was uncovered waste at the site.

25. On July 20, 1999, the landfill was accepting waste in Parcel A, and there was uncovered refuse on Parcel B.

26. Section 21(o) of the Act, 415 ILCS 5/21(o) (2002), provides, in pertinent part, as follows:

> No person shall:
>
> * * *
>
> o. Conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section in a manner which results in any of the following conditions:
>
> 1. refuse in standing or flowing waters;
>
> * * *
>
> 5. uncovered refuse remaining from any previous operating day or at the conclusion of any operation day, unless authorized by permit;
>
> * * *
>
> 12. failure to collect and contain litter from the site by the end of each operating day.

27. Section 807.306 of the Illinois Pollution Control Board's ("Board's") Waste Disposal Regulations, 35 Ill. Adm. Code 807.306, provides, as follows:

> All litter shall be collected from the sanitary landfill site by the end of each working day and either placed in the fill and compacted and covered that day, or stored in

a covered container.

28. Litter and refuse are waste as that term is defined in Section 3.535 of the Act, 415 ILCS 5/3.535 (2002).

29. The site is a sanitary landfill that requires a permit under Section 21(d) of the Act, 415 ILCS 5/21(d)(2002).

30. By failing to remove, or cause employees to remove refuse in perimeter ditches and the retention pond on March 22, 1995, and by allowing refuse to remain in perimeter ditches on May 22, 1995, the Respondents have violated Section 21(o)(1) of the Act, 415 ILCS 5/21(o)(1) (2002).

31. By allowing leachate seeps to erode areas of the landfill and expose previously covered refuse, at least on May 22, 1995, the Respondents have violated Section 21(o)(5) of the Act, 415 ILCS 5/21(o)(5) (2002).

32. By allowing litter and refuse to remain exposed, uncontained, and uncovered, around various areas of the site on April 7, 1994, March 22, 1995, May 22, 1995, July 28, 1998, March 31, 1999, May 11, 1999 and July 20, 1999, the Respondents violated Sections 21(o)(5) and (12) of the Act, 415 ILCS 5/21(o)(5) and (12) (2002), and Section 807.306 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 807.306, and thereby also violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count I:

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

2. Finding that the Respondents have caused or allowed violations of Section 21(d)(2), 21(o)(1), (5), and (12) of the Act, and 35 Ill. Adm. Code 807.306;

3. Ordering the Respondents to cease and desist from any further violations of Sections 21(d)(2), 21(o)(1), (5) and (12), and 35 Ill. Adm. Code 807.306;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents, jointly and severally, for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT II
FAILURE TO PREVENT OR CONTROL LEACHATE FLOW

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

18. During the April 7, 1994, inspection, the Illinois EPA inspector observed five leachate seeps along the northwest perimeter of Parcel B.

19. During the March 22, 1995, inspection, the Illinois EPA inspector observed numerous leachate seeps at the northwest perimeter of the landfill.

20. During the May 22, 1995, inspection, the Illinois EPA inspector observed numerous leachate seeps along the north slope of

the landfill and in the north perimeter ditch which eventually drains into the Illinois River.

21. Section 21(o) of the Act, 415 ILCS 5/21(o) (2002), provides, in pertinent part, as follows:

> No person shall:
>
> * * *
>
> o. Conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section, in a manner which results in any of the following conditions:
>
> * * *
>
> 2. leachate flows entering waters of the State;
>
> 3. leachate flows exiting the landfill confines (as determined by the boundaries established for the landfill by a permit issued by the Agency);
>
> * * *

22. Section 807.314(e) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.314(e), provides as follows:

> Except as otherwise authorized in writing by the Agency, no person shall cause or allow the development or operation of a sanitary landfill which does not provide:
>
> * * *
>
> e) Adequate measures to monitor and control leachate;

23. Section 3.550 of the Act, 415 ILCS 5/3.550 (2002), contains the following definition:

> "WATERS" means all accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon the State.

24. The Illinois River is a "water" of the State of Illinois, as that term is defined in Section 3.550 of the Act, 415 ILCS

5/3.550 (2002).

25. The Respondents failed to take sufficient action, or direct their employees to take sufficient action, to prevent leachate seeps from exiting the landfill.

26. By allowing leachate seeps to exit the landfill boundaries and enter waters of the State, and by failing to control leachate flow, the Respondents have violated Sections 21(d)(2), and 21(o)(2) and (3) of the Act, 415 ILCS 5/21(d)(2) and 21(o)(2) and (3) (2002), and Section 807.314(e) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.314(e).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count II:

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

2. Finding that the Respondents have caused or allowed violations of Sections 21(d)(2), 21(o)(2) and (3), and 35 Ill. Adm. Code 807.314(e);

3. Ordering the Respondents to cease and desist from any further violations of Sections 21(d)(2), 21(o)(2) and (3), and 35 Ill. Adm. Code 807.314(e);

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents, jointly and severally, for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including

expert witness, consultant and attorney fees, expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT III
FAILURE TO PROPERLY DISPOSE OF LANDSCAPE WASTE

1-16. Complainant realleges and incorporates by reference herein paragraphs 1 through 16 of Count I as paragraphs 1 through 16 of this Count III as if fully set forth herein.

17. Section 22.22(c) of the Act, 415 ILCS 5/22.22(c) (2002), provides as follows:

> c. Beginning July 1, 1990, no owner or operator of a sanitary landfill shall accept landscape waste for final disposal, except that landscape waste separated from municipal waste may be accepted by a sanitary landfill if (1) the landfill provides and maintains for that purpose separate landscape waste composting facilities and composts all landscape waste, and (2) the composted waste is utilized, by the operators of the landfill or by any other person, as part of the final vegetative cover for the landfill or such other uses as soil conditioning material.

18. On August 18, 1993 and April 7, 1994, the Illinois EPA conducted inspections of the site. During these inspections, the Illinois EPA inspector observed that the landscape waste had been deposited in the landfill area.

19. On July 28, 1998, the Respondents were causing and allowing the landfilling of landscape waste at the site in Parcel A.

20. By causing and allowing the landfilling of landscape waste, the Respondents violated Section 22.22(c) of the Act, 415 ILCS 5/22.22(c) (2002).

WHEREFORE, Complainant PEOPLE OF THE STATE OF ILLINOIS,

respectfully requests that the Board enter an order against Respondents, EDWARD PRUIM, and ROBERT PRUIM, with respect to Count III:

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

2. Finding that the Respondents have caused or allowed violations of Section 22.22(c) of the Act;

3. Ordering the Respondents to cease and desist from any further violations of Section 22.22(c) of the Act;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents, jointly and severally, for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT IV
FAILURE TO PROVIDE AND MAINTAIN ADEQUATE FINANCIAL ASSURANCE PURSUANT TO THE APRIL 20, 1993 PERMIT

1-16. Complainant realleges and incorporates by reference herein paragraphs 1 through 16 of Count I as paragraphs 1 through 16 of this Count IV as if fully set forth herein.

17. Section 21.1(a) of the Act, 415 ILCS 5/21.1(a) (2002), provides as follows:

> a. Except as provided in subsection (a.5) no person other than the State of Illinois, its agencies and institutions, or a unit of local government shall

conduct any waste disposal operation on or after March 1, 1985, which requires a permit under subsection (d) of Section 21 of this Act, unless such person has posted with the Agency a performance bond or other security for the purpose of insuring closure of the site and post-closure care in accordance with this Act and regulations adopted thereunder.

18. Section 807.601(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.601(a), states as follows:

> No person shall conduct a waste disposal operation or indefinite storage operation which requires a permit under Section 21(d) of the Act unless such person has provided financial assurance in accordance with this Subpart.
>
> a) The financial assurance requirement does not apply to the State of Illinois, its agencies and institutions, or to any unit of local government; provided, however, that any other persons who conduct such a waste disposal operation on a site which may be owned or operated by such a government entity must provide financial assurance for closure and post-closure care of the site.

19. Section 807.603(b)(1) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.603(b)(1), provides as follows:

> b) The operator must increase the total amount of financial assurance so as to equal the current cost estimate within 90 days after any of the following:
>
> 1) An increase in the current cost estimate;
>
> * * *

20. Item 3 of CLC's supplemental permit dated April 20, 1993, provided that financial assurance was to be maintained in an amount equal to $1,342,500.00.

21. Item 3 of CLC's supplemental permit dated April 20, 1993, approved the Respondents' current cost estimate for $1,342,500.00.

22. Respondents Edward Pruim and Robert Pruim failed to arrange financing and increase the total amount of CLC's financial

assurance to $1,342,500.00, within 90 days after the Agency approved its cost estimate on April 20, 1993.

23. Respondents arranged for and provided a performance bond for CLC on June 20, 1996.

24. By continuing to allow acceptance of waste a the Site from July 13, 1993 until June 20, 1996, and by failing to provide adequate financial assurance, the Respondents violated Section 21.1(a) of the Act, 415 ILCS 5/21.1(a) (2002), and Section 807.601(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.601(a).

25. By failing to adequately increase the financial assurance amount by July 19, 1993 (90 days after the Agency approved its cost estimate on April 20, 1993), the Respondents have violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2002), and Section 807.603(b)(1) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 807.603(b)(1).

26. Respondents caused and allowed CLC to be out of compliance with Section 21.1(a) of the Act, 415 ILCS 5/21.1(a)(2002), 35 Ill. Adm. Code 807.601(a) and 807.603(b)(1) from July 19, 1993 until June 20, 1996.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count IV:

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

2. Finding that the Respondents have violated Sections

21(d)(2) and 21.1(a) of the Act, and 35 Ill. Adm. Code Sections 807.601(a) and 807.603(b)(1);

3. Ordering the Respondents to cease and desist from any further violations of Sections 21(d)(2) and 21.1(a) of the Act, and 35 Ill. Adm. Code Sections 807.601(a) and 807.603(b)(1);

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents, jointly and severally, for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT V
FAILURE TO TIMELY FILE THE REQUIRED APPLICATION FOR A SIGNIFICANT MODIFICATION

1-16. Complainant realleges and incorporates by reference herein paragraphs 1 through 16 of Count I as paragraphs 1 through 16 of this Count V as if fully set forth herein.

17. Section 814.104 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 814.104, provides as follows:

> a. All owners or operators of landfills permitted pursuant to Section 21(d) of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1991, ch. 111 ½, par. 1021(d) [415 ILCS 5/21(d)] shall file an application for a significant modification to their permits for existing units, unless the units will be closed pursuant to Subpart E within two years of the effective date of this Part.
>
> b. The owner or operator of an existing unit shall submit information required by 35 Ill. Adm. Code 812

to demonstrate compliance with Subpart B, Subpart C or Subpart D of this Part, whichever is applicable.

c. The application shall be filed within 48 months of the effective date of this Part, or at such earlier time as the Agency shall specify in writing pursuant to 35 Ill. Adm. Code 807.209 or 813.201(b).

d. The application shall be made pursuant to the procedures of 35 Ill. Adm. Code 813.

18. The Respondents failed to cause CLC to file the required significant modification for Parcel B by June 15, 1993.

19. The Respondents finally filed CLC's significant modification on August 5, 1996, pursuant to a prospective variance issued by the Board.

20. By failing to file CLC's required significant modification for Parcel B by June 15, 1993, the Respondents have violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2)(2002), and Section 814.104 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 814.104.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count V:

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

2. Finding that the Respondents have violated Section 21(d)(2) of the Act and Section 814.104 of the Board's Waste Disposal Regulations;

3. Ordering the Respondents to cease and desist from any further violations of Section 21(d)(2) of the Act or Section

814.104 of the Board's Waste Disposal Regulations;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents, jointly and severally, for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00) per day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT VI
WATER POLLUTION

1-21. Complainant realleges and incorporates by reference herein, paragraphs 1 through 21 of Count I as paragraphs 1 through 21 of this Count VI as if fully set forth herein.

22. During the May 22, 1995, inspection, the Illinois EPA inspector observed leachate in the north perimeter ditch, which eventually drains into the Illinois River.

23. Section 12(a) of the Act, 415 ILCS 5/12(a) (2002), provides as follows:

> No person shall:
>
> a. Cause or threaten or allow the discharge of any contaminants in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act;

24. Section 807.313 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.313, provides as follows:

> No person shall cause or allow operation of a sanitary

> landfill so as to cause or threaten or allow the discharge of any contamination into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under the Act.

25. Section 3.165 of the Act, 415 ILCS 5/3.165 (2002), defines "contaminant" as "any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source."

26. The leachate the Illinois EPA inspector observed in the north perimeter ditch is a contaminant as that term is defined at Section 3.165 of the Act, 415 ILCS 5/3.165 (2002).

27. Section 3.550 of the Act, 416 ILCS 5/3.550 (2002), defines waters as "all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through or border upon this State."

28. The Illinois River into which leachate from the north perimeter ditch located on the site eventually drains, is a water of the state of Illinois as that term is defined at Section 3.550 of the Act, 415 ILCS 5/3.550 (2002).

29. Section 3.545 of the Act, 415 ILCS 5/3.545 (2002), defines "water pollution" as follows:

> "Water pollution" is such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the State, or such discharge of any contaminant into any waters of the State, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses", or to livestock, wild animals, birds, fish, or other aquatic life.

30. Causing or allowing leachate, a contaminant, to flow into the north perimeter ditch which eventually drains or discharges into the Illinois River constitutes water pollution as that term is defined at Section 3.545 of the Act, 415 ILCS 5/3.545 (2002).

31. The Respondents failed to take sufficient action, or direct their employees to take sufficient action, to prevent leachate from flowing off-Site to the Illinois River. By allowing leachate to flow off-site to the Illinois River, the Respondents have violated Sections 12(a) and 21(d)(2) of the Act, 415 ILCS 5/12(a) and 21(d)(2) (2002), and Section 807.313 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.313.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count VI:

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

2. Finding that the Respondents have violated Sections 12(a) and 21(d)(2) of the Act and 35 Ill. Adm. Code 807.313;

3. Ordering the Respondents to cease and desist from any further violations of Sections 12(a) and 21(d)(2) of the Act and 35 Ill. Adm. Code 807.313;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents, jointly and severally, for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including

expert witness, consultant and attorney fees, expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT VII
DEPOSITING WASTE IN UNPERMITTED PORTIONS OF A LANDFILL

1-15. Complainant realleges and incorporates by reference herein, paragraphs 1 through 15 of Count I as paragraphs 1 through 15 of this Count VII as if fully set forth herein.

16. On June 5, 1989, supplemental development permit number 1989-005-SP was issued to CLC for the vertical expansion of Parcel A and Parcel B.

17. Supplemental developmental permit number 1989-005-SP, specifically incorporated, as part of said permit, the final plans, specifications, application and supporting documents that were submitted by the Respondents and approved by the Illinois EPA.

18. The Respondents' supplemental development permit application, incorporated as part of supplemental development permit number 1989-005-SP, provides the maximum elevation for the landfill as 580 feet above mean sea level.

19. Respondents, who managed and controlled the deposit of waste at the landfill, were therefore required not to allow the landfill elevation to exceed 580 feet above mean sea level.

20. On or about January 17, 1995, the Respondents submitted a Solid Waste Capacity Certification to Illinois EPA, signed by Respondent Edward Pruim, reporting that there was no remaining capacity in Parcel B as of January 1, 1995.

21. Despite having reported no remaining capacity in Parcel B at the site, the Respondents continued to cause and allow the deposit of waste in Parcel B after January 1, 1995.

22. On or about January 15, 1996, the Respondents submitted a Solid Waste Landfill Capacity Certification to Illinois EPA, signed by Respondent Robert Pruim, reporting that the Respondents had received over 540,000 cubic yards for deposit in Parcel B between January 1, 1995 and December 31, 1995.

23. On August 5, 1996, the Respondents caused CLC to file with the Illinois EPA, an application for significant modification of parcel B. The application contained a map which shows the current condition of parcel B.

24. The map referenced in paragraph 23 above, shows the current elevation for parcel B to be at least 590 feet above mean sea level, a ten feet increase over the permitted elevation.

25. On April 30, 1997, the Respondents caused CLC to submit to the Illinois EPA, a document titled: "ADDENDUM TO THE APPLICATION FOR SIGNIFICANT MODIFICATION TO PERMIT MORRIS COMMUNITY LANDFILL - PARCEL B." The information contained therein showed, that in excess of 475,000 cubic yards of waste was disposed of above the permitted landfill height of 580 feet above mean sea level.

26. On information and belief, to the date of filing this amended complaint, portions of Parcel B continue to exceed 580 feet above mean sea level.

27. Section 21(o)(9) of the Act, 415 ILCS 5/21(o)(9) (2002), provides as follows:

No person shall:

Conduct a sanitary landfill operation which is required to have a permit under subsection (d) of this Section, in a manner which results in any of the following conditions:

9. deposition of refuse in any unpermitted portion of the landfill.

28. Refuse is waste as that term is defined at Section 3.535 of the Act, 415 ILCS 5/3.535 (2002).

29. On and before August 5, 1996, or a date better known to Respondents, and continuing until the filing of this Amended Complaint herein, the Respondents caused and allowed the deposit of refuse in unpermitted portions of parcel B.

30. By causing and allowing the deposit of refuse or waste in portions of parcel B above its permitted elevation, the Respondents violated Section 21(o)(9) of the Act, 415 ILCS 5/21(o)(9) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count VII:

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

2. Finding that the Respondents have caused or allowed violations of Section 21(o)(9) of the Act;

3. Ordering the Respondents to cease and desist from any further violations of Section 21(o)(9) of the Act;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents, jointly and severally, for each violation, and an addition civil penalty of Ten Thousand

Dollars ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT VIII
CONDUCTING A WASTE DISPOSAL OPERATION WITHOUT A PERMIT

1-26. Complainant realleges and incorporates by reference herein paragraphs 1 through 26 of Count VII as paragraphs 1 through 26 of this Count VIII as if fully set forth herein.

27. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(2002), provides as follows:

> No person shall:
>
> 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 ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

28. Refuse is waste as that term is defined at Section 3.535 of the Act, 415 ILCS 5/3.535 (2002).

29. By causing or allowing refuse or waste to be deposited in Parcel B at the landfill above the permitted elevation of 580 feet above mean sea level, unpermitted areas of the landfill, the Respondents conducted a waste-storage or waste-disposal operation.

30. Neither the Respondents nor CLC have a permit for the disposal of waste above an elevation of 580 feet above mean sea

level.

31. Since at least August 5, 1996, or a date better known to the Respondents, and continuing until the filing of this Amended Complaint, the Respondents have caused and allowed the deposition of waste in unpermitted portions of Parcel B of the landfill in violation of Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count VIII:

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

2. Finding that the Respondents have caused or allowed violations of Section 21(d)(1) of the Act;

3. Ordering the Respondents to cease and desist from any further violations of Section 21(d)(1) of the Act;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents for each violation, and an additional civil penalty of Ten Thousand ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT IX
OPEN DUMPING

1-26. Complainant realleges and incorporates by reference herein paragraphs 1 through 26 of Count VII as paragraphs 1 through 26 of this Count IX as if fully set forth herein.

27. Section 21(a) of the Act, 415 ILCS 5/21(a) (2002), provides as follows:

> No person shall:
>
> a. Cause or allow the open dumping of any waste.

28. Section 3.305 of the Act, 415 ILCS 5/3.305 (2002), provides the following definition:

> "OPEN DUMPING" means the consolidation of refuse from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

29. Sections 3.385 and 3.460 of the Act, 415 ILCS 5/3.385, 3.460 (2002), provides the following definitions, respectively:

> "REFUSE" means waste.
>
> "SITE" means any location, place, tract of land, and facilities, including, but not limited to building, and improvements used for purposes subject to regulation or control by this Act or regulations thereunder.

30. The landfill is a "disposal site" as those terms are defined in the Act.

31. Since at least August 5, 1996, or a date better known to the Respondents, the Respondents caused or allowed the consolidation of refuse at the site, above the permitted elevation of 580 feet above mean sea level.

32. The consolidation of refuse at the site on Parcel B above the permitted elevation of 580 feet above mean sea level, disposal areas that do not fulfill the requirements of a sanitary landfill,

constitutes "open dumping" as that term is defined in Section 3.24 of the Act, 415 ILCS 5/3.24 (2002).

33. The Respondents, by their conduct as described herein, have violated Section 21(a) of the Act, 415 ILCS 5/21(a) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count IX:

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

2. Finding that the Respondents have caused or allowed violations of Section 21(a) of the Act;

3. Ordering the Respondents to cease and desist from any further violations of Section 21(a) of the Act;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in the pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT X
VIOLATION OF STANDARD CONDITION 3

1-26. Complainant realleges and incorporates by reference herein, paragraphs 1 through 26 of Count VII as paragraphs 1 through

26 of this Count X as if fully set forth herein.

27. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(2002), provides as follows:

> No person shall:
>
> 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 ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

28. Refuse is waste as that term is defined at Section 3.535 of the Act, 415 ILCS 5/3.535 (2002).

29. Standard condition number 3 of supplemental development permit number 1989-005-SP which was issued to CLC on June 5, 1989, provides as follows:

> There shall be no deviation from the approved plans and specifications unless a written request for modification of the project, along with plans and specifications as required, shall have been submitted to the Agency and a supplemental written permit issued.

30. Standard condition number 3 of supplemental development permit number 1989-005-SP, required the Respondents to obtain a supplemental permit for CLC in order to increase landfill elevation above 580 feet above mean sea level.

31. Since at least August 5, 1996, or a date better known to the Respondents, and continuing until the filing of this Complaint, the Respondents failed to obtain a supplemental permit for CLC to increase the permitted elevation of the landfill before depositing waste therein, above 580 feet above mean sea level.

32. The Respondents, by their conduct as described herein, violated standard condition number 3 of supplemental development permit number 1989-005-SP, and thereby, also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count X:

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

2. Finding that Respondents have caused or allowed violations of Section 21(d)(1) of the Act and standard condition number 3 of permit number 1989-005-SP;

3. Ordering the Respondents to cease and desist from any further violations of Section 21(d)(1) of the Act and standard condition number 3 of permit number 1989-0005-SP;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents, jointly and severally, for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in the pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT XI

CONDUCTING A WASTE DISPOSAL OPERATION WITHOUT A PERMIT

1-25. Complainant realleges and incorporates by reference herein paragraphs 1 through 25 of Count I as paragraphs 1 through 25 of this Count XI as if fully set forth herein.

26. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(2002), provides as follows:

> No person shall:
>
> 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 ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

27. Refuse is waste as that term is defined at Section 3.535 of the Act, 415 ILCS 5/3.535(2002).

28. The enactment of Part 814 of the Board's waste disposal regulations required, pursuant to 35 Ill. Adm. Code Part 814 Subpart D, that non-hazardous waste landfills initiate closure by September 18, 1997 if they cannot demonstrate, through a significant modification permit application and Illinois EPA inspection, compliance with the more stringent requirements of 35 Ill. Adm. Code Part 814 Subpart C.

29. Subpart C of Part 814, 35 Ill. Adm. Code 814.301-302, specifically, 814.301(a), allows a permitted facility that meets the requirements of that Subpart to stay open past September 18, 1997.

30. In order to meet the requirements of Subpart C of Part 814, a facility must comply with the requirements of 35 Ill. Adm.

Code: Subtitle G, Part 811, including, but not limited to the requirements of 811.704. Section 811.704 of 35 Ill. Adm. Code requires the post-closure cost estimates shall be "based on the assumption that the Agency will contract with a third party to implement the closure plan".

31. A facility which accepted waste after 1992 that fails to meet the requirements of Subpart C is subject to the requirements of Subpart D.

32. Subpart D of Part 814, 35 Ill. Adm. Code 814.401-402, requires a facility regulated under this Subpart to close and stop accepting waste within seven (7) years of the effective date of Part 814. Part 814 became effective on September 18, 1990.

33. Section 814.105(b) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 814.105(b), provides temporary relief from this closure requirement for facilities that timely file their application for significant modification and reads as follows:

> b) An operator who has timely filed a notification pursuant to Section 814.103 and an application for significant permit modification pursuant to Section 814.104 shall continue operation under the terms of its existing permits until final determination by the Agency on its application and any subsequent appeal to the Board pursuant to Section 40 of the Act. During this time, the operator will be deemed to be in compliance with all requirements of this Part.

34. Section 814.104 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 814.104, provides, in pertinent part, as follows:

> (a) All operators of landfills permitted pursuant to Section 21(d) of the Environmental Protection Act, (Act)(Ill. Rev. Stat. 1989, ch. 111 ½, par.

1021(d))[now 415 ILCS 5/21(d)(2002)] shall file an application for a significant modification to their permits for existing units, unless the units will be closed pursuant to Subpart E within two years of the effective date of this Part.

* * *

(c) The application shall be filed within 48 months of the effective date of this Part, or at such earlier time as the Agency shall specify in writing pursuant to 35 Ill. Adm. Code 807.209 or 813.201(b).

35. Forty Eight (48) months from the effective date of Part 814 was September 18, 1994.

36. The Illinois EPA specified to the Respondents, in writing, that CLC was to submit its application for significant modification of its permit by June 15, 1993.

37. Respondents failed to cause CLC to submit the application by June 15, 1993.

38. On April 26, 1995, the Respondents filed a petition for variance with the Board.

39. On June 17, 1996, the Appellate Court entered an Order overturning the Board's variance denial and ordered the "Illinois Pollution Control Board to immediately issue a prospective variance to Community Landfill Corporation allowing it to file its significant modification application within 45 days".

40. In a subsequently issued written opinion, the Appellate Court noted that it did not award CLC the extraordinary relief of a retroactive variance.

41. Respondents caused CLC to file an application for significant modification on August 5, 1996, within the 45 days allowed by the prospective variance.

42. Among other defects, as part of its application for significant modification, the Respondents did not provide the Illinois EPA with post-closure cost estimates "based on the assumption that the Agency will contract with a third party to implement the closure plan".

43. By failing to demonstrate CLC's ability to comply with Part 811 of the Board's Waste Disposal Regulations, the Respondents did not meet the requirements of 814 Subpart C, and therefore are subject to the requirements of Subpart D including the requirement that it initiate closure of the site by September 18, 1997.

44. By failing to file a timely application for significant modification, neither the Respondents, nor CLC, had legal authority to continue accepting waste at the facility past September 18, 1997.

45. By accepting waste in Parcel A after September 18, 1997, the Respondents violated Section 21(d) of the Act, 415 ILCS 5/21(d)(2002), and 35 Ill. Adm. Code 814.301(b) and 814.401.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count XI:

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

2. Finding that Respondents have caused or allowed violations of Section 21(d) of the Act and 35 Ill. Adm. Code 814.301 and 814.401;

3. Ordering the Respondents to cease and desist from any further violations of Section 21(d) of the Act and 35 Ill. Adm. Code

814.301 and 814.401

4. Ordering the Respondents to cease and desist from accepting waste at the site, until such time as it is permitted to accept waste;

5. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents, jointly and severally, for each violation, and an additional civil penalty of Ten Thousand ($10,000.00) for each day of violation;

6. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in its pursuit of this action; and

7. Granting such other relief as the Board deems appropriate.

COUNT XII
IMPROPER DISPOSAL OF USED TIRES

1-15. Complainant realleges and incorporates by reference herein, paragraphs 1 through 10, paragraphs 12 through 15, and paragraph 17, of Count I as paragraphs 1 through 15 of this Count XII as if fully set forth herein.

16. Section 55(b-1) of the Act, 415 ILCS 5/55(b-1)(2002), provides, in pertinent part, as follows:

> b-1 Beginning January 1, 1995, no person shall knowingly mix any used or waste tire, either whole or cut, with municipal waste, and no owner or operator of a sanitary landfill shall accept any used or waste tire for final disposal; except that used or waste tires, when separated from other waste, may be accepted if: (1) the sanitary landfill provides and maintains a means for shredding, slitting, or chopping whole tires and so treats whole tires and, if approved by the Agency in a permit issued under this Act, uses the used or waste tires for alternative uses, which may include on-site

> practices such as lining of roadways with tire scraps, alternative daily cover, or use in a leachate collection system or (2) the sanitary landfill, by its notification to the Illinois Industrial Materials Exchange Service, makes available the used or waste tires to an appropriate facility for reuse, reprocessing, or converting, including use as an alternative energy fuel.

17. On July 28, 1998, the Respondents were allowing the mixing of waste tires with municipal waste and placement of the mixed waste in the active area of Parcel A of the landfill for disposal.

18. By the actions described herein, Respondents have violated Section 55(b-1) of the Act.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count XII:

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

2. Finding that the Respondents have caused or allowed violations of Section 55(b-1) of the Act;

3. Ordering the Respondents to cease and desist from any further violations of Section 55(b-1) of the Act;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00)for each day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State

in the pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT XIII
VIOLATION OF PERMIT CONDITION

1-22. Complainant realleges and incorporates by reference herein, paragraphs 1 through 22 of Count I as paragraphs 1 through 22 of this Count XIII, as if fully set forth herein.

23. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(2002), provides as follows:

> No person shall:
>
> 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 ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

24. Refuse is waste as that term is defined at Section 3.535 of the Act, 415 ILCS 5/3.535(2002).

25. Special condition number 13 of supplemental development permit number 1989-005-SP which was issued to Respondent CLC on June 5, 1989, provides as follows:

> Movable, temporary fencing will be used to prevent blowing litter, when the refuse fill is at a higher elevation than the natural ground line.

25. Special condition number 13 of CLC's supplemental development permit number 1989-005-SP, required the Respondents to utilize movable fencing to prevent blowing litter when the refuse fill is at a higher elevation than the natural ground line.

26. On March, 31, 1999, a windy day, no movable fencing was present, even though the fill was at a higher elevation than the natural ground line, and litter was blowing all over the landfill.

27. The Respondents, by their acts and omissions as described herein, caused and allowed violations of special condition number 13 of CLC's supplemental development permit number 1989-005-SP, and thereby, violates Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count XIII:

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

2. Finding that the Respondents have caused or allowed violations of Section 21(d)(1) of the Act and special condition number 13 of permit number 1989-005-SP;

3. Ordering the Respondents to cease and desist from any further violations of Section 21(d)(1) of the Act and special condition number 13 of permit number 1989-005-SP;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents, jointly and severally, for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in the pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT XIV
VIOLATION OF PERMIT CONDITION

1-23. Complainant realleges and incorporates by reference herein, paragraphs 1 through 23 of Count I as paragraphs 1 through 23 of this Count XIV as if fully set forth herein.

24. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(2002), provides as follows:

> No person shall:
>
> 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 ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

25. Refuse is waste as that term is defined at Section 3.535 of the Act, 415 ILCS 5/3.535 (2002).

26. Special condition number 1 of supplemental development permit number 1996-240-SP which was issued to Respondent CLC on October 24, 1996, provides as follows:

> This permit allows the development and construction of an active gas management system and a gas flare. Prior to operation of the gas control facility, the applicant shall provide to the Agency the following information, certified by a registered professional engineer.
>
> a) "as built" construction plans;
> b) boring logs for the gas extraction wells;
> c) any changes to the operation and maintenance of the system;
> d) contingency plan describing the emergency procedures that will be implemented in the event of a fire or explosion at the facility; and

e) permit numbers from the Agency's Bureaus of Air and Water.

This information shall be submitted in the form of a permit application.

27. The Respondents were required by special condition number 1 of supplemental development permit number 1996-240-SP, to provide the Illinois EPA with the abovementioned information, before operating its gas control facility.

28. On or about March 31, 1999, or on a date or dates better known to the Respondents, the Respondents allowed commencement of operation of the gas control facility at the site without having first providing the necessary information to the Illinois EPA.

29. On May 5, 1999, the Illinois EPA received Respondents' submittal regarding an operating authorization request for the landfill gas management system.

30. The Respondents, by their acts and omissions as described herein, violated special condition number 1 of CLC's supplemental development permit number 1996-240-SP, and thereby, also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count XIV:

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

2. Finding that Respondents have caused or allowed violations of Section 21(d)(1) of the Act and special condition

number 1 of permit number 1996-240-SP;

3. Ordering Respondents to cease and desist from any further violations of Section 21(d)(1) of the Act and special condition number 1 of permit number 1996-240-SP;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents, jointly and severally, for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in the pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT XV
VIOLATION OF PERMIT CONDITION

1-23. Complainant realleges and incorporates by reference herein, paragraphs 1 through 23 of Count I as paragraphs 1 through 23 of this Count XV as if fully set forth herein.

24. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(2002), provides as follows:

> No person shall:
>
> 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 ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

25. Refuse is waste as that term is defined at Section 3.535 of the Act, 415 ILCS 5/3.535 (2002).

26. Special condition number 9 of supplemental development permit number 1996-240-SP, provides as follows:

> While the site is being developed or operated as a gas control or extraction facility, corrective action shall be taken if erosion or ponding are observed, if cracks greater than one inch wide have formed, if gas, odor, vegetative or vector problems arise, or if leachate popouts or seeps are present in the areas disturbed by constructing this gas collection facility.

27. Respondents were required by special condition number 9 of supplemental development permit number 1996-240-SP, to take corrective action when there was erosion, ponding, and cracks greater than one inch wide at the facility.

28. On or about March 31, 1999,on Parcel A, there was erosion, ponding and cracks over one inch wide at the facility, no vegetative cover, and no corrective action was being taken.

29. On July 20, 1999, there was not a vegetative cover over the entire Parcel B of the landfill.

30. The Respondents failed to take any action, or authorize and direct their employees to take any action, to prevent erosion, ponding, and crack in the landfill cover, and failed to provide for proper vegetative cover at the Site.

31. Respondents, by the conduct described herein, violated special condition number 9 of its supplemental development permit number 1996-240-SP, and thereby, also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against

Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count XV:

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

2. Finding that Respondents have caused or allowed violations of Section 21(d)(1) of the Act and special condition number 9 of permit number 1996-240-SP;

3. Ordering the Respondents to cease and desist from any further violations of Section 21(d)(1) of the Act and special condition number 9 of permit number 1996-240-SP;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents, jointly and severally, for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in the pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT XVI
VIOLATION OF PERMIT CONDITION

1-23. Complainant realleges and incorporates by reference herein, paragraphs 1 through 23 of Count I as paragraphs 1 through 23 of this Count XVI as if fully set forth herein.

24. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(2002), provides as follows:

No person shall:

> 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 ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

25. Refuse is waste as that term is defined at Section 3.535 of the Act, 415 ILCS 5/3.535 (2002).

26. Special condition number 11 of supplemental development permit number 1996-240-SP, provides as follows:

> Condensate from the gas accumulations system, and leachate pumped and removed from the landfill shall be disposed at an IEPA permitted publically owned treatment works, or a commercial treatment or disposal facility. The condensate shall be analyzed to determine if hazardous waste characteristics are present. A written log showing the volume of liquid discharged to the treatment facility each day by the landfill will be maintained at the landfill. This log will also show the hazardous waste determination analytical results.

27. The Respondents were required by special condition number 11 of supplemental development permit number 1996-240-SP, to dispose of leachate pumped from the cells at a permitted, publically owned treatment works, or a commercial treatment or disposal facility.

28. On or about March 31, 1999 and July 20, 1999, the Respondents caused and allowed leachate to be pumped from the landfill into new cells for added moisture and did not dispose of it at a permitted facility.

29. The Respondents, by the conduct described herein, violated special condition number 11 of supplemental development permit number 1996-240-SP, and thereby also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count XVI:

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

2. Finding that Respondents have caused or allowed violations of Section 21(d)(1) of the Act and special condition number 11 of permit number 1996-240-SP;

3. Ordering the Respondents to cease and desist from any further violations of Section 21(d)(1) of the Act and special condition number 11 of permit number 1996-240-SP, including, but not limited to the improper use or disposal of leachate;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents, jointly and severally, for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in the pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT XVII
FAILURE TO PROVIDE AND MAINTAIN ADEQUATE FINANCIAL ASSURANCE PURSUANT TO THE OCTOBER 24, 1996 PERMIT

1-23. Complainant realleges and incorporates by reference herein, paragraphs 1 through 23 of Count I as paragraphs 1 through

23 of this Count XVII as if fully set forth herein.

24. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(2002), provides as follows:

> No person shall:
>
> 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 ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

25. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (2002).

26. Special condition number 13 of supplemental development permit number 1996-240-SP, dated October 24, 1996, provides as follows:

> Financial assurance shall be maintained by the operator in accordance with 35 Ill. Adm. Code, Subtitle G, Part 807, Subpart F in an amount equal to the current cost estimate for closure and post closure care. The current cost estimate is $1,431,360.00 as stated in Permit Application, Log No. 1996-240. Within 90 days of the date of this permit, the operator shall provide financial assurance in the amount of the current cost estimate as required by 35 Ill. Adm. Code 807.603(b)(1). (Note: prior to the operation of the gas extraction system in accordance with Special Condition 1 of this permit, the operator shall provide financial assurance in the amount of $1,439,720.00)

27. The Respondents were required by special condition number 13 of supplemental development permit number 1996-240-SP, to arrange financing for CLC to provide $1,431,360.00 in financial assurance within 90 days from October 24, 1996 (January 22, 1997) and to increase this amount to $1,439,720.00 prior to the operation of the

gas extraction system.

28. The Respondents did not increase CLC's financial assurance to $1,431,360.00 by January 22, 1997 (90 days from October 24, 1996).

29. The Respondents did not provide for CLC's financial assurance in the amount of $1,439,720.00 prior to the operation of the gas extraction system.

30. The Respondents caused CLC to provide to the Illinois EPA a rider to the existing performance bond that increased the amount of financial assurance to $1,439,720.00 on September 1, 1999.

31. The Respondents, by the conduct described herein, caused or allowed violations of special condition number 13 of supplemental development permit number 1996-240-SP, and thereby, also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2002).

32. The Respondents were out of compliance with special condition number 13 of supplemental development permit number 1996-240-SP and Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(2002) from January 22, 1997 until September 1, 1999.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents, EDWARD PRUIM, and ROBERT PRUIM, with respect to Count XVII:

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

2. Finding that Respondents have caused or allowed violations of Section 21(d)(1) of the Act and special condition number 13 of permit number 1996-240-SP;

3. Ordering the Respondents to cease and desist from any further violations of Section 21(d)(1) of the Act and special condition number 13 of permit number 1996-240-SP;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against Respondents, jointly and severally, for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in the pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT XVIII
VIOLATION OF PERMIT CONDITION

1-23. Complainant realleges and incorporates by reference herein, paragraphs 1 through 23 of Count I as paragraphs 1 through 23 of this Count XVIII as if fully set forth herein.

24. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(2002), provides as follows:

> No person shall:
>
> 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 ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

25. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (2002).

26. Special condition number 17 of supplemental development permit number 1989-005-SP, provides, in pertinent part, as follows:

> Prior to placing waste material in any Area, a registered professional engineer shall certify that the floor and/or sidewall liner or seal has been developed and constructed in accordance with an approved plan and specifications. . . Such data and certification shall be submitted to the Agency prior to placement of waste in the areas referenced above. No wastes shall be placed in those areas until the Agency has approved the certifications and issued an Operating Permit.

27. The Respondents were required by special condition number 17 of supplemental development permit number 1996-240-SP, to obtain CLC's Operating Permit and Illinois EPA approval based on a professional engineer's certification before placing any waste materials in an area that did not yet have this approval.

28. On March 31, 1999, and July 20, 1999, the Respondents caused or allowed placement of leachate, a waste, in areas that had not been certified or approved by the Illinois EPA.

29. The Respondents, by the conduct described herein, violated special condition number 17 of supplemental development permit number 1989-005-SP, and thereby, also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2002).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count XVIII:

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

2. Finding that Respondents have caused or allowed violations of Section 21(d)(1) of the Act and special condition

number 17 of permit number 1989-005-SP;

3. Ordering the Respondents to cease and desist from any further violations of Section 21(d)(1) of the Act and special condition number 17 of permit number 1989-005-SP;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents, jointly and severally, for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in the pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

COUNT XIX
FAILURE TO PROVIDE REVISED COST ESTIMATE BY DECEMBER 26, 1994

1-16. Complainant realleges and incorporates by reference herein paragraphs 1 through 16 of Count I as paragraphs 1 through 16 of this Count XIX as if fully set forth herein.

17. Section 21.1(a) of the Act, 415 ILCS 5/21.1(a) (2002), provides as follows:

> a. Except as provided in subsection (a.5) no person other than the State of Illinois, its agencies and institutions, or a unit of local government shall conduct any waste disposal operation on or after March 1, 1985, which requires a permit under subsection (d) of Section 21 of this Act, unless such person has posted with the Agency a performance bond or other security for the purpose of insuring closure of the site and post-closure care in accordance with this Act and regulations adopted thereunder.

18. Section 807.601(a) of the Board's Waste Disposal

Regulations, 35 Ill. Adm. Code 807.601(a), states as follows:

> No person shall conduct a waste disposal operation or indefinite storage operation which requires a permit under Section 21(d) of the Act unless such person has provided financial assurance in accordance with this Subpart.
>
> a) The financial assurance requirement does not apply to the State of Illinois, its agencies and institutions, or to any unit of local government; provided, however, that any other persons who conduct such a waste disposal operation on a site which may be owned or operated by such a government entity must provide financial assurance for closure and post-closure care of the site.

19. Section 807.623(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.623(a), provides as follows:

> a. The operator must revise the current cost estimate at least once every two years. The revised current cost estimate must be filed on or before the second anniversary of the filing or last revision of the current cost estimate.

20. Item 9 of the CLC's supplemental permit dated April 20, 1993, provided that the next revised cost estimate was due by December 26, 1994.

21. Respondents failed to cause CLC to provide a revised cost estimate by December 26, 1994.

22. On July 26, 1996, the Respondents submitted a Supplemental Permit Application for the gas collection and recovery system and included a revised cost estimate in the amount of $1,431,360.00.

23. By failing to revise the cost estimate by December 26, 1994, as required by the April 20, 1993, supplemental permit, the Respondents have violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2002), and Section 807.623(a) of the Board's Waste

Disposal Regulations, 35 Ill. Adm. Code 807.623(a).

24. The Respondents were out of compliance with Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2)(2002), 35 Ill. Adm. Code 807.623(a) from December 26, 1994 until July 26, 1996.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondents EDWARD PRUIM, and ROBERT PRUIM, with respect to Count XIX:

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

2. Finding that Respondents have violated Sections 21(d)(2) of the Act, and Section 807.623(a), of the Board's Waste Disposal Regulations;

3. Ordering the Respondents to cease and desist from any further violations of Sections 21(d)(2) of the Act, and Sections 807.623(a), of the Board's Waste Disposal Regulations;

4. Assessing a civil penalty of Fifty Thousand Dollars ($50,000.00) against the Respondents, jointly and severally, for each violation, and an additional civil penalty of Ten Thousand Dollars ($10,000.00) for each day of violation;

5. Requiring the Respondents to pay all costs, including expert witness, consultant and attorney fees, expended by the State in its pursuit of this action; and

6. Granting such other relief as the Board deems appropriate.

PEOPLE OF THE STATE OF ILLINOIS,
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