

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
Complainant,	)	
	)	
v.	)	No.
	)	
WASTE MANAGEMENT OF ILLINOIS, INC.,	)	
a Delaware corporation,	)	
	)	
Respondent.	)	

**NOTICE OF FILING**  
(VIA ELECTRONIC FILING)

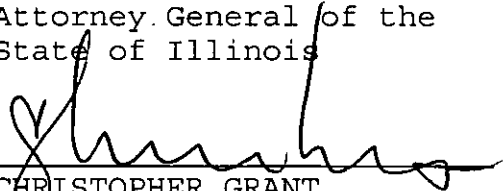
PLEASE TAKE NOTICE that we have today, September 13, 2005, filed with the Office of the Clerk of the Illinois Pollution Control Board by electronic filing the following Complaint, a copy of which is attached and hereby served upon you.

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.

Respectfully submitted,

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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PEOPLE OF THE STATE OF ILLINOIS,     )  
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WASTE MANAGEMENT OF ILLINOIS, INC.,)  
a Delaware corporation,             )  
  )  
                  Respondent.         )

COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, complains of the Respondent, WASTE MANAGEMENT OF ILLINOIS, INC., as follows:

COUNT I  
VIOLATION OF LANDFILL OPERATING PERMIT

1. This Complaint 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 and at the request of the Illinois Environmental Protection Agency ("Illinois EPA") pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (2004).

2. The Illinois EPA is an administrative agency established in the executive branch of the State government by Section 4 of the Act, 415 ILCS 5/4 (2004), and is charged, *inter alia*, with the duty of enforcing the Act.

3. Respondent, WASTE MANAGEMENT OF ILLINOIS, INC. ("WMI"), is a Delaware corporation, duly authorized to transact business in the State of Illinois. WMI is the permitted operator of Prairie Hill Recycling and Disposal.

4. Prairie Hill Recycling and Disposal ("Prairie Hill") is a municipal solid waste sanitary landfill, located in Morrison, Whiteside County, Illinois. Prairie Hill is owned by the County of Whiteside.

5. As operator of a sanitary landfill, Prairie Hill is required to obtain an Illinois EPA-issued Permit for solid waste disposal operations. On July 15, 1994, the Respondent was issued Permit No. 1994-579-LF ("Permit") by Illinois EPA, as operator. Permit No. 1994-579-LF was renewed for an additional five-year period on July 15, 2005.

6. Permit No. 1994-579-LF allows the disposal of municipal solid waste in the Prairie Hill landfill, pursuant to enumerated conditions. However, Prairie Hill is not a permitted RCRA hazardous waste management facility. At all times relevant to this complaint, the Respondent did not have an assigned USEPA hazardous waste identification number, and was not permitted for the storage, treatment or disposal of hazardous waste at Prairie Hill.

7. Permit No. 1994-579-LF provides, in pertinent part, as follows:

II. OPERATING CONDITIONS

\* \* \*

2. *The operator of this solid waste facility shall not conduct the operation in a manner which results in any of the following:*

\* \* \*

*(g) acceptance of wastes without necessary permits;*

8. As part of its landfill operations, the Respondent transports solid waste from customer locations for disposal at Prairie Hill. At all times relevant to this Complaint, one of the Respondent's waste disposal customers was Magellan Midstream Partners, L.P. ("Magellan").

9. Magellan is the owner and operator of a petroleum products distribution terminal, located at 1222 U.S. Route 30, Amboy, Lee County, Illinois. During June and July, 2004, Magellan generated solid waste, in the form of petroleum-contaminated Styrofoam ("waste Styrofoam"), from repair/rehabilitation of petroleum products storage tanks. The waste Styrofoam was placed in the Respondent's waste transport containers at Magellan's Amboy, Illinois facility.

10. On or about July 2, 2004, Magellan arranged for testing of the waste Styrofoam, using the Toxicity Characteristic Leaching Procedure ("TCLP"). The test results indicated that the waste Styrofoam had a TCLP-tested benzene concentration of 6.3 milligrams per liter ("mg/L"). On July 16, 2004, Magellan provided these test results to the Respondent.

11. On July 20, 2004, the Respondent picked up two container loads of the waste Styrofoam from Magellan's Amboy facility.

12. On July 20, 2004, the Respondent disposed of the two loads of waste Styrofoam in an active disposal cell of Prairie Hill. At the end of the operating day, the waste Styrofoam was covered with soil.

13. On July 22, 2004, the Respondent notified Illinois EPA that it had accepted and disposed of hazardous waste at Prairie Hill. The hazardous waste was identified as the two loads of waste Styrofoam accepted from Magellan's facility on July 20, 2004.

14. Section 21(d) of the Act, 415 ILCS 5/21(d) (2004), provides, in pertinent part, as follows:

No person shall:

\* \* \*

(d) Conduct any waste-storage, waste-treatment; or

waste-disposal operation:

- (1) Without a permit granted by the Agency or in violation of any conditions imposed by such permit...

15. Section 3.315 of the Act, 415 ILCS 5/3.315 (2004), provides, as follows:

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

16. The Respondent is a 'person' as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2004).

17. Section 3.535 of the Act, 415 ILCS 5/3.535 (2004), provides, in pertinent part, as follows:

"Waste" means any means any garbage, sludge from a waste treatment plant, water supply 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...

18. The waste Styrofoam was discarded by Magellan, and is "waste" as that term is defined by Section 3.535 of the Act, 415 ILCS 5/3.535 (2004).

19. Pursuant to authority granted under the Act, and in conformance with the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901 et seq., the Illinois Pollution Control Board has promulgated regulations applicable to the disposal of

solid waste, found at 35 Ill. Adm. Code, Subtitle G, Chapter I  
("Board Waste Disposal regulations").

20. Section 721.102 of the Board Waste Disposal  
regulations, 35 Ill. Adm. Code 721.102, provides, in pertinent  
part, as follows:

**Definition of Solid Waste**

a) Solid waste.

1) A solid waste is any discarded material  
that is not excluded by Section  
721.104(a) or that is not excluded  
pursuant to 35 Ill. Adm. Code 720.130  
and 720.131.

(2) A discarded material is any material  
that is described as follows:

(A) Abandoned, as explained in  
subsection (b) of this Section;

\* \* \*

b) A material is a solid waste if it is  
abandoned in one of the following ways:

(1) It is disposed of;

\* \* \*

21. The waste Styrofoam was disposed of by the Respondent  
through placement in a landfill, and was therefore 'discarded'.  
The waste Styrofoam is therefore 'solid waste' as that term is  
defined and used in the Board Waste Disposal regulations.

22. Section 721.120 of the Board Waste Disposal

regulations, 35 Ill. Adm. Code 721.120, provides, in pertinent part, as follows:

**General**

- a) A solid waste, as defined in Section 721.102, which is not excluded from regulation as a hazardous waste under Section 721.104(b), is a hazardous waste if it exhibits any of the characteristics identified in this Subpart C.

23. Section 721.124 of the Board Waste Disposal regulations, 35 Ill. Adm. Code 721.124, provides, in pertinent part, as follows:

**Toxicity Characteristic**

- a) A solid waste (except manufactured gas plant waste) exhibits the characteristic of toxicity if, using the Toxicity Characteristic Leaching Procedure TCLP)...the extract from a representative sample of the waste contains any of the contaminants listed in the table in subsection (b) of this Section at a concentration equal to or greater than the respective value given in that table....
- b) A solid waste that exhibits the characteristic of toxicity has the USEPA hazardous waste number specified in the following table that corresponds to the toxic contaminant causing it to be hazardous.

**MAXIMUM CONCENTRATION OF CONTAMINANTS FOR THE  
TOXICITY CHARACTERISTIC**

USEPA Hazardous Waste No.	Contaminant	CAS No.	Regulatory Level (mg/L)
---------------------------------	-------------	---------	-------------------------------



	*	*	*
D018	Benzene	71-43-2	0.5
	*	*	*

24. The waste Styrofoam had a TCLP-tested benzene concentration of 6.3 mg/L, greatly exceeding the maximum benzene concentration listed in 35 Ill. Adm. Code 721.124. The waste Styrofoam is therefore 'hazardous waste', with the USEPA Hazardous Waste Number of D018.

25. Section 3.185 of the Act, 415 ILCS 5/3.185 (2004), provides, as follows:

"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.

26. The Respondent's acceptance and placement of the waste Styrofoam in an active disposal cell at the Prairie Hill facility constituted 'disposal' as that term is defined in the Act.

27. At all times relevant to this Complaint, Permit No. 1994-579 did not allow the disposal of hazardous waste. By accepting and disposing of the waste Styrofoam at the Prairie Hill Landfill, the Respondent violated Condition II.2.g of Permit No. 1994-579-LF, and thereby also, violated Section

21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondent, WASTE MANAGEMENT OF ILLINOIS, INC. on Count I:

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

2. Finding that the Respondent has violated Section 21(d)(1) of the Act, and Permit No. 1994-579-LF;

3. Ordering the Respondent to cease and desist from any further violation of Section 21(d)(1) of the Act, and Permit No. 1994-579-LF;

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000) for each violation of the Act, and Permit No. 1994-579-LF, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;

5. Assessing all costs against the Respondent, pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

Count II  
ACCEPTING HAZARDOUS WASTE  
WITHOUT A RCRA HAZARDOUS WASTE PERMIT

1-25. Complainant realleges and incorporates by reference herein, paragraphs 1 through 13, and paragraphs 15 through 26 of Count I, as paragraphs 1 through 25 of this Count II.

26. At all times relevant to this Complaint, the Respondent did not have a Resource Conservation and Recovery Act permit ("RCRA permit") for the treatment, storage or disposal of hazardous waste at Prairie Hill.

27. Section 21(o) of the Act, 415 ILCS 5/21(o) (2004), 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:

\* \* \*

- (7) acceptance of wastes without necessary permits;

28. Section 21(f) of the Act, 415 ILCS 5/21(f) (2004), provides, in pertinent part, as follows:

No Person Shall:

- f) Conduct any hazardous waste-storage, hazardous waste-treatment, or hazardous waste-disposal operation:

- 1) without a RCRA permit for the site issued by the Agency under subsection (d) of Section 39 of this Act, or in violation of any condition imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with regulations and standards adopted thereunder; or
- 2) in violation of any regulations and standards adopted by the Board under this Act;

\* \* \*

29. Section 703.121 of the Board Waste Disposal regulations, 35 Ill. Adm. Code 703.121, provides in pertinent part, as follows:

**RCRA Permits**

- (a) No person may conduct any hazardous waste storage, hazardous waste treatment, or hazardous waste disposal operation as follows:

- 1) Without a RCRA permit for the HWM (hazardous waste management) facility;

\* \* \*

30. On July 20, 2004, the Respondent disposed of the waste Styrofoam, and therefore 'conducted a waste disposal operation' at the Site, a sanitary landfill. Because the waste Styrofoam was hazardous waste, the Respondent also 'conducted a hazardous

waste disposal operation'.

31. By accepting a classified waste without required permits for that classification of waste, at Prairie Hill, a sanitary landfill regulated by Permit No. 1994-579-LF, the Respondent violated Section 21(o)(7) of the Act, 415 ILCS 5/21(o)(7)(2004).

32. By conducting a hazardous waste disposal operation without a RCRA permit, the Respondent violated Section 21(f)(1) of the Act, 415 ILCS 5/21(f)(1)(2004), and Section 703.121(a) of the Board Waste Disposal regulations, 35 Ill. Adm. Code 703.121(a). By violating 35 Ill. Adm. Code 703.121(a), the Respondent also violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2)(2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against the Respondent, WASTE MANAGEMENT OF ILLINOIS, INC., on Count II:

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

2. Finding that the Respondent has violated Sections 21(o)(7), 21(f)(1), and 21(f)(2) of the Act, and 35 Ill. Adm. Code 703.121(a);

3. Ordering the Respondent to cease and desist from any further violation of Sections 21(o)(7), 21(f)(1), and 21(f)(2) of the Act, and 35 Ill. Adm. Code 703.121(a);

4. Assessing against the Respondent a civil penalty of Fifty Thousand Dollars (\$50,000) for each violation of Section 21(o)(7) of the Act, and an additional civil penalty of Ten Thousand Dollars (\$10,000) for each day of violation;

5. Assessing against the Respondent a civil penalty of Twenty Five Thousand Dollars (\$25,000) for each day of violation of Sections 21(f)(1) and 21(f)(2) of the Act, and 35 Ill. Adm. Code 703.121(a);

6. Assessing all costs against the Respondent, pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

Count III  
VIOLATION OF REGULATIONS APPLICABLE  
TO TRANSPORTERS OF HAZARDOUS WASTE

1-26. Complainant hereby realleges and incorporates by reference herein, paragraphs 1 through 25, and paragraph 28, of Count II, as paragraphs 1 through 26 of this Count III.

27. On July 20, 2004, the Respondent accepted two

container loads of the waste Styrofoam from the Magellan facility. However, the Respondent failed to obtain an EPA waste identification number prior to transporting and disposing of the waste at Prairie Hill. The Respondent also failed to obtain a manifest from Magellan for the two waste loads prior to accepting the waste for transport and disposal.

28. Section 720.110 of the Board Waste Disposal regulations, 35 Ill. Adm. Code 720.110, provides, in pertinent part, as follows:

\* \* \*

"Generator" means any person, by site location, whose act or process produces hazardous waste identified or listed in 35 Ill. Adm. Code 721 or whose act first causes a hazardous waste to become subject to regulation.

\* \* \*

"Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

\* \* \*

29. Magellan's storage tank rehabilitation activities produced the waste Styrofoam, a hazardous waste. Magellan is therefore a 'generator' of hazardous waste.

30. The Respondent picked up and transported two loads of the waste Styrofoam from Magellan's Amboy facility to Prairie Hill. The Respondent is therefore a 'transporter' of hazardous

waste.

31. Section 723.120(a) of the Board Waste Disposal Regulations,, 35 Ill. Adm. Code 723.120(a), provides, in pertinent part, as follows:

**The Manifest System**

(a) No acceptance without a manifest.

(1) A transporter shall not accept hazardous waste from a generator unless it is accompanied by a manifest signed in accordance with the provisions of 35 Ill. Adm. Code 722.120....

32. Section 723.111 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 723.111, provides, in pertinent part, as follows:

**USEPA Identification Number**

(a) A transporter must not transport hazardous waste without having received an EPA identification number from the Administrator.

33. The Respondent accepted and transported hazardous waste without a hazardous waste manifest, and thereby violated Section 723.120(a) of the Board Waste Disposal regulation, 35 Ill. Adm. Code 723.120(a), and thereby also, violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2004).

34. The Respondent transported hazardous waste without first obtaining a USEPA identification number. The Respondent thereby violated Section 723.111 of the Board Waste Disposal



regulations, 35 Ill. Adm. Code 723.111, and thereby also, violated Section 21(f)(2) of the Act, 415 ILCS 5/21(f)(2)(2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of the Complainant and against the Respondent, WASTE MANAGEMENT OF ILLINOIS, INC., on Count III:

1. Authorizing a hearing of this matter, at which time the Respondent will be required to answer the allegations herein;

2. Finding that the Respondent has violated Section 21(f)(2) of the Act, and 35 Ill. Adm. Code Sections 723.120(a) and 723.111;

3. Ordering the Respondent to cease and desist from any further violations of Section 21(f)(2) of the Act, and 35 Ill. Adm. Codes Sections 723.120(a) and 723.111;

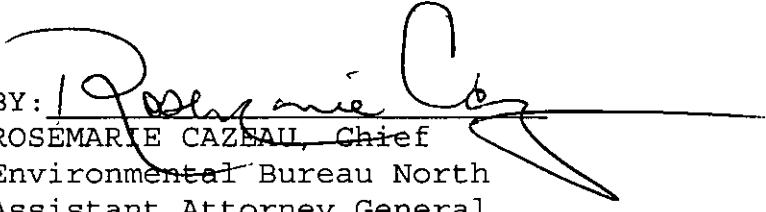
4. Assessing against the Respondent a civil penalty of Twenty Five Thousand Dollars (\$25,000) for each day of violation of Section of Section 21(f)(2) of the Act, and 35 Ill. Adm. Code Sections 723.120(a) and 723.111;

5. Assessing all costs against the Respondent, pursuant to Section 42(f) of the Act, including attorney, expert witness and consultant fees expended by the State in its pursuit of this action; and

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

PEOPLE OF THE STATE OF ILLINOIS  
by LISA MADIGAN,  
Attorney General of the State of  
Illinois,

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

BY:   
ROSEMARIE CAZEAU, Chief  
Environmental Bureau North  
Assistant Attorney General

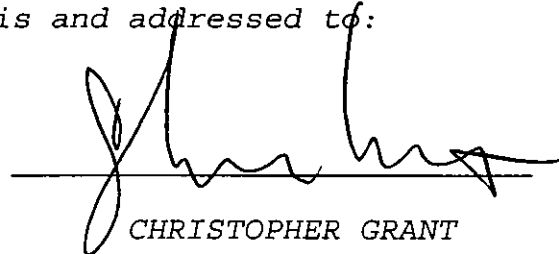
OF COUNSEL:  
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	)	
Respondent.	)	

CERTIFICATE OF SERVICE

I, CHRISTOPHER GRANT, an attorney, do certify that I caused to be served this 13<sup>th</sup> day of September, 2005, the foregoing Complaint and Notice of Filing upon person listed below, by registered certified mail, by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 W. Randolph, Chicago Illinois and addressed to:

  
CHRISTOPHER GRANT

Service List:

WASTE MANAGEMENT OF ILLINOIS, INC.  
c/o CT Corporation System  
208 S. La Salle Street, Suite 814  
Chicago, IL 60604-1101