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JAN 18 2006

STATE OF ILLINOIS
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

January 12, 2006

PLB06-133

The Honorable Dorothy Gunn
Illinois Pollution Control Board
James R. Thompson Center, Ste. 11-500
100 West Randolph
Chicago, Illinois 60601

Re: ***People v. City of Flora***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a Notice of Filing, Entry of Appearance, Complaint, Motion for Relief from Hearing Requirement and Stipulation and Proposal for Settlement in regard to the above-captioned matter. Please file the originals and return file-stamped copies to me in the enclosed, self-addressed envelope.

Thank you for your cooperation and consideration.

Very truly yours,

Kristen Laughridge Gale
Environmental Bureau
500 South Second Street
Springfield, Illinois 62706
(217) 782-9031

KLG/pp
Enclosures

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD **RECEIVED**
CLERK'S OFFICE

JAN 18 2006

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
 Complainant,)
)
 vs.)
)
 CITY OF FLORA, an Illinois)
 municipal corporation,)
)
 Respondent.)

PCB No. 06-PCB- 133
(Enforcement)

NOTICE OF FILING

To: CITY OF FLORA
c/o Mr. Robert Coble
832 West North Avenue
P.O. Box 538
Flora, IL 62839


PLEASE TAKE NOTICE that on this date I mailed for filing with the Clerk of the Pollution Control Board of the State of Illinois, a COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT, a copy of which is attached hereto and herewith served upon you.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY: 
KRISTEN LAUGHRIDGE GALE
Assistant Attorney General
Environmental Bureau

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: January 12, 2006


CERTIFICATE OF SERVICE

I hereby certify that I did on January 12, 2006, send by First Class Mail, with postage thereon fully prepaid, by depositing in a United States Post Office Box a true and correct copy of the following instruments entitled NOTICE OF FILING, COMPLAINT, MOTION FOR RELIEF FROM HEARING REQUIREMENT and STIPULATION AND PROPOSAL FOR SETTLEMENT:

To: CITY OF FLORA
c/o Mr. Robert Coble
832 West North Avenue
P.O. Box 538
Flora, IL 62839

and the original and ten copies by First Class Mail with postage thereon fully prepaid of the same foregoing instrument(s):

To: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
Suite 11-500
100 West Randolph
Chicago, Illinois 60601



KRISTEN LAUGHRIDGE GALE
Assistant Attorney General

This filing is submitted on recycled paper.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JAN 18 2006

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
vs.)
)
CITY OF FLORA, an Illinois)
municipal corporation,)
)
)
Respondent.)

No. 06-PCB- 133
(Enforcement-Water)

MOTION FOR RELIEF FROM HEARING REQUIREMENT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, and pursuant to Section 31(c)(2) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(c)(2) (2004), moves that the Illinois Pollution Control Board grant the parties in the above-captioned matter relief from the hearing requirement imposed by Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2004). In support of this motion, Complainant states as follows:

1. The parties have reached agreement on all outstanding issues in this matter.
2. This agreement is presented to the Board in a Stipulation and Proposal for Settlement, filed contemporaneously with this motion.
3. All parties agree that a hearing on the Stipulation and Proposal for Settlement is not necessary, and respectfully request relief from such a hearing as allowed by Section 31(c)(2) of the Act, 415 ILCS 5/31(c)(2) (2004).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, hereby requests that the Board grant this motion for relief from the hearing requirement set forth in Section 31(c)(1) of the Act, 415 ILCS 5/31(c)(1) (2004).

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS
LISA MADIGAN
ATTORNEY GENERAL

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

BY: 

KRISTEN LAUGHRIDGE GALE
Environmental Bureau
Assistant Attorney General

500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: January 12, 2006

THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

JAN 18 2006

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
ex rel. LISA MADIGAN, Attorney)
 General of the State of Illinois,)
)
 Complainant,)
)
 vs.)
)
 CITY OF FLORA, an Illinois municipal)
 corporation,)
)
 Respondent.)

No. 06 - PCB 133
(Land-Enforcement)

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, at the request of the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, complains of the Respondent, CITY OF FLORA, an Illinois municipal corporation, as follows:

COUNT I

LANDFILL OPERATION VIOLATIONS

1. This Complaint is brought by the Attorney General 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 agency of the State of Illinois created by the Illinois General Assembly in Section 4 of the Act, 415 ILCS 5/4 (2004), and charged, *inter alia*, with the duty of enforcing the Act in proceedings before the Illinois Pollution Control Board ("Board").

3. The Complaint is brought pursuant to Section 31 of the Act, 415 ILCS 5/31 (2004), after providing the Respondent with notice and opportunity for a meeting with the Illinois EPA.

4. The Respondent, CITY OF FLORA is an Illinois municipal corporation located in Clay County, Illinois. The Respondent owns the Flora Municipal #2 Landfill ("landfill"), a solid waste disposal site consisting of approximately 121 acres. The landfill is located off of Route 1 South in the NE 1/4 of Section 2, Township 2N, Range 2E, Harter Township, Clay County, Illinois.

5. Section 3.385 of the Act, 415 ILCS 5/3.385 (2004), provides as follows:

"REFUSE" means waste.

6. Section 3.535 of the Act, 415 ILCS 5/3.535 (2004), provides as follows:

"WASTE" means any garbage . . . 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,...

* * *

7. Section 21 of the Act, 415 ILCS 5/21 (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....; or

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

* * *

e. Dispose, treat, store or abandon any waste...except at a site or facility which meets the requirements of this Act and of regulations and standards thereunder.

8. Section 807.305 of the Board's Sanitary Landfill Regulations, 35 Ill. Adm. Code

807.305, provides:

Unless otherwise specifically provided by permit, the following cover requirements shall be followed:

- c) Final Cover - a compacted layer of not less than two feet of suitable material shall be placed over the entire surface of each portion of the final lift not later than 60 days following the placement of refuse in the final lift, unless a different schedule has been authorized in the Operating Permit.

9. Section 807.306 of the Board's Sanitary Landfill Regulations, 35 Ill. Adm. Code

807.306, provides:

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.

10. Section 807.311 of the Board's Sanitary Landfill Regulations, 35 Ill. Adm. Code

807.311, provides:

No person shall cause or allow open burning at a sanitary landfill site except in accordance with the provisions of 35 Ill. Adm. Code: Subtitle B (prior to codification: Chapter 2, Part V: Open Burning), of the Rules and Regulations of the Pollution Control Board (35 Ill. Adm. Code: Subtitle B, Chapter I)

11. Section 745.181 of the Board's Waste Disposal Certification Regulations, 35 Ill.

Adm. Code 745.181, provides, in pertinent part, as follows:

- b) The owner or other named permittee shall designate one or more chief operators for each waste disposal site.

12. Section 807.502 of the Board's Solid Waste Regulations, 35 Ill. Adm. Code

807.502, provides, in pertinent part, as follows:

In addition to the specific requirements of this Part, an operator of a waste management site shall close the site in a manner which:

- a) Minimizes the need for further maintenance;

* * *

13. Section 807.508 of the Board's Solid Waste Regulations, 35 Ill. Adm. Code 807.508, provides, in pertinent part, as follows:

a) When closure is completed, the operator of a waste management site shall submit to the Agency:

* * *

2) An affidavit by the operator and by a professional engineer that the site has been closed in accordance with the closure plan.

14. The landfill was permitted to handle municipal refuse and municipal sewer sludge under Permit 1971-45-OP issued on November 4, 1971, and a Supplemental Permit 1992-226-SP, issued on October 1, 1993. The landfill ceased accepting waste on October 16, 1990. The Illinois EPA facility identification number is 0250100002.

15. On September 30, 2002, Illinois EPA conducted an inspection of the landfill and noted violations of open dumping, inadequate monitoring well conditions, the presence of cracking and erosion gulleys, and the absence of the information needed to certify closure of the landfill.

16. On April 13, 2003, Illinois EPA received a letter from the former City Administrator of Flora, indicating that he would no longer be the operator of the Flora Municipal #2 Landfill.

17. On August 13, 2003, Illinois EPA returned and conducted another inspection of the landfill for the purpose of determining the current conditions of the landfill. During the inspection, a person was tilling the soil on the landfill, a portion of the landfill had been farmed and vegetated growth along the northeast perimeter of the farmland had been burned.

18. Waste was scattered in the central and southern portion of the landfill that had been tilled. The waste consisted of half a dozen red containers labeled as poison and exhibiting a skull & cross bones.

19. Gasses were being released in a low lying area, shown by the continuous presence of bubbles surfacing and popping, and a sheen on the surface of ponded water in that area. Because the cover on the landfill had been tilled, it could not determine if there were still cracking and erosion gulleys that had been observed on the last inspection.

20. Illinois EPA reviewed the files at the landfill and found no documentation that another operator had been assigned to the landfill.

21. Illinois EPA reviewed records at Illinois EPA and found that the landfill is closed but has not submitted an affidavit for certification of completion of closure by a professional engineer.

22. On December 13, 2004, Illinois EPA conducted an inspection of the landfill. The required compact layer of not less than 2 feet of suitable material was not in place in the area where the soil had been tilled. The landfill did not have vegetative growth over the entire landscape, and there was standing water in different locations on the landfill.

23. On March 17, 2005, Illinois EPA returned to the landfill for an inspection. When Illinois EPA arrived at the landfill there was a tractor tilling the northwestern corner of the landfill. The tilling of the landfill removed the required two feet of compacted suitable material and the northwestern area lacked vegetative growth. General refuse and litter, including two tires and a mangled red canister with a skull and crossbones, was scattered northwest and northeast of the gate at the landfill.

24. By not maintaining at least two feet of compacted suitable material on the landfill, the Respondent has violated Section 807.305 of the Board's Solid Waste Regulations, 35 Ill. Adm. Code 807.305.

25. By allowing litter to accumulate on the landfill, the Respondent has violated Section 807.306 of the Board's Solid Waste Regulations, 35 Ill. Adm. Code 807.306.

26. By causing or allowing open burning of vegetation at the landfill, the Respondent has violated Section 807.311 of the Board's Solid Waste Regulations, 35 Ill. Adm. Code 807.311.

27. By not having a designated operator for the landfill, Respondent has violated Section 745.181 of the Board's Waste Disposal Certification Regulations, 35 Ill. Adm. Code 745.181.

28. By tilling the landfill, not having vegetative growth, allowing standing water, and allowing the presence of waste on the landfill, the Respondent has not closed the landfill in a manner that minimizes the need for further maintenance in violation of Section 807.502 of the Board's Solid Waste Regulations, 35 Ill. Adm. Code 807.502.

29. By not submitting to the Illinois EPA an affidavit by a professional engineer that the site has been closed according to the closure plan, Respondent has violated Section 807.508 of the Board's Solid Waste Regulations, 35 Ill. Adm. Code 807.508.

30. By tilling the landfill, open burning, and allowing the presence of waste, Respondent has disposed, treated, or stored waste at a site that does not meet the requirements of the Act or regulations, thereby violating Section 21(e) of the Act, 415 ILCS 21(e) (2004)

31. By violating the Act and Board regulations, the Respondent has violated Section 21 (d)(2) of the Act, 415 ILCS 5/21(d)(2) (2004).

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Court grant the following relief:

A. Find that the Respondent, CITY OF FLORA, has violated Sections 21(d)(2) and 21(e) of the Act, 415 ILCS 5/21(d)(2), 21(e) (2004), and Sections 807.311, 745.181, 807.502,

and 807.508 of the Board's Solid Waste Regulations, 35 Ill. Adm. Code 807.311, 745.181, 807.502, and 807.508.

B. Permanently enjoin the Respondent, CITY OF FLORA, from further violations of the Act and associated regulations pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2004);

C. Order the Respondent, CITY OF FLORA, to bring the landfill into compliance with the Act and Board regulations;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon the Respondent, CITY OF FLORA, a monetary penalty of not more than the statutory maximum;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and

F. Grant such other and further relief as the Court deems appropriate.

COUNT II

GROUNDWATER POLLUTION

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

24. Section 3.550 of the Act, 415 ILCS 5/3.550 (2004), provides as follows:

"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 this State.

25. Section 3.545 of the Act, 415 ILCS 5/3.545 (2004), provides 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.

26. Section 12(a) of the Act, 415 ILCS 5/12(a) (2004), provides:

No person shall:

- (a) Cause or threaten or allow the discharge of any contaminants 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 this Act.

27. Section 620.115 of the Board's Groundwater Quality Regulations, 35 Ill. Adm.

Code 620.115, provides:

No person shall cause, threaten or allow a violation of the Act, the Illinois Groundwater Protection Act (IGPA) or regulations adopted by the Board thereunder, including but not limited to this Part.

28. Section 620.405 of the Board's Groundwater Quality Regulations, 35 Ill. Adm.

Code 620.405, provides:

No person shall cause, threaten or allow the release of any contaminant to groundwater so as to cause a groundwater quality standard set forth in this Subpart to be exceeded.

29. Section 620.420(a) of the Board's Groundwater Quality Regulations, 35 Ill. Adm.

Code 620.420(a), provides, in pertinent part, as follows:

- a) Inorganic Chemical Constituents
 - 2) Except as provided in Section 620.450 or subsection (a)(3) or (d) of this Section, concentrations of the following chemical constituents must not be exceeded in Class II groundwater:

* * *

Constituent	Standard (mg/L)
Chloride	200.0
Total Dissolved Solid (TDS)	1,200.0
Sulfate	400.0

* * *

30. Section 807.302 of the Board's Sanitary Landfill Regulations, 35, Ill. Adm. Code 807.302, provides:

All conditions and provisions of each permit shall be complied with.

31. Special Condition 6(b) of Attachment A of Permit #1971-45-OP and 1992-226-SP provides:

The permittee shall conclude that a significant change in groundwater quality has occurred if the results of the evaluation in item No. 5 above indicate that the value for any parameter exceeds:

* * *

b. The applicable groundwater quality standards listed in Subpart D of 35 IAC 620 Standards (e.g. Class I and Class II);...

32. Special Condition 8 of Attachment A of Permit #1971-45-OP and 1992-226-SP provides, in pertinent part, as follows:

In the event a significant change in groundwater quality has occurred or has been confirmed, the permittee shall:

a. Notify the IEPA, Division of Land Pollution Control, Permit Section, in writing, within 10 days of the change in groundwater quality, identifying each well and each parameter;

b. Submit an assessment monitoring plan within 30 days of the significant change as determined in item No. 6 or item No. 7 above in the form of a supplemental permit application. The assessment monitoring plan shall include appropriate methods for determining the source of the increase, the potential threat to human health and the environment and the concentration and extent of the contaminants if any. The assessment monitoring plan shall, at a minimum, include expanded sampling requirements for the affected well(s) and shall be implemented within 30 days of approval from the Agency.

* * *

33. Special Condition #18 of Attachment A of Permit #1971-45-OP and 1992-226-SP provides, in pertinent part, as follows:

The concentration or values for the parameters contained in Lists 1, 2 and 3 shall be determined for samples collected from the groundwater monitoring points and reported according to the schedule in item No. 22 and evaluated in accordance with item No. 5.

* * *

List 3

Volatile Organic Parameters (Unfiltered)	Practical Quantitation Limits (PQL)
Acetone	10 ug/L
2-Butanone	10 ug/L
Carbon Disulfide	5 ug/L

* * *

34. On March 1, 2004, Illinois EPA reviewed groundwater data for the landfill from groundwater analytical information dated October 6, 2003, as well as analytical data collected from 2000 through 2003. The analytical data was compared to the Class II standards in Section 620.420 of the Board Groundwater Quality Regulations, 35 Ill. Adm. Code. 620.420.

35. Illinois EPA found four exceedences of inorganic Class II standards in the October 6, 2003 data and multiple exceedences of the inorganic Class II standards in the analytical data submitted for the January 2000 through July 2003 sampling events.

36. Illinois EPA did not receive notification from Respondent when a change in the groundwater was detected, nor did Illinois EPA receive an assessment plan within 30 days of the determination of a significant change in groundwater quality.

37. Since at least January 2000, Respondent has exceeded the sulfate standard for groundwater of 400 mg/L in three monitoring wells:

Sample Collection Date	Monitoring Wells		
	G101	G106	G107
1/27/2000	NE	1000	1670
4/20/2000	NE	1270	1740
7/25/2000	NE	ND	1810
8/15/2000	NE	2720	ND
10/9/2000	NE	1170	1580
1/16/2001	NE	1500	1920

Sample Collection Date	Monitoring Wells		
	G101	G106	G107
4/4/2001	NE	1440	1880
7/5/2001	NE	1460	1800
10/2/2001	NE	1290	1860
2/21/2002	412	1470	1850
4/5/2002	418	1440	1690
7/2/2002	472	1610	1850
10/2/2002	404	1280	1770
1/6/2003	NE	1170	1620
4/8/2003	458	1380	1630
7/3/2003	494	1500	1760
10/6/2003	NE	1360	1850
NE = Nonexceedence of the Standard ND = No data available for that date			

38. Since at least January 2000, Respondent has exceeded the total dissolved solids (TDS) standard for groundwater of 1,200 mg/L in four monitoring wells:

Sample Collection Date	Monitoring Wells			
	G101	G103	G106	G107
1/27/2000	NE	1490	2900	3090
4/20/2000	NE	NE	3370	2850
7/25/2000	NE	NE	ND	2980
8/15/2000	NE	NE	3450	ND
10/9/2000	NE	NE	3420	3000
1/16/2001	NE	NE	3360	3050
4/4/2001	NE	NE	3230	3010
7/5/2001	NE	NE	3500	3010
10/2/2001	NE	1370	3110	3130
2/21/2002	NE	NE	3360	2960

Sample Collection Date	Monitoring Wells			
	G101	G103	G106	G107
4/5/2002	1220	NE	3460	3040
7/2/2002	1280	NE	3490	2940
10/2/2002	1230	1550	3040	3080
1/6/2003	1200	1340	3110	2870
4/8/2003	1350	NE	3480	3080
7/3/2003	1420	NE	3640	3150
10/6/2003	NE	NE	3340	3120
NE = Nonexceedence of the Standard ND = No data available for that date				

39. Since at least October 2000, Respondent has exceeded the chloride standard for groundwater of 200 mg/L in two monitoring wells:

Sample Collection Date	Monitoring Wells	
	G101	G104
1/27/2000	NE	NE
4/20/2000	NE	NE
7/25/2000	NE	NE
8/15/2000	NE	NE
10/9/2000	249	NE
1/16/2001	258	227
4/4/2001	223	280
7/5/2001	NE	NE
10/2/2001	212	NE
2/21/2002	NE	NE
4/5/2002	205	279
7/2/2002	NE	NE
10/2/2002	NE	NE
1/6/2003	213	NE

Sample Collection Date	Monitoring Wells	
	G101	G104
4/8/2003	222	NE
7/3/2003	240	NE
10/6/2003	NE	NE
NE = Nonexceedence of the Standard ND = No data available for that date		

40. In the May 2003 sampling event three volatile organic parameters exceeded the standards established in Special Condition 18 of Attachment A of Permit #1971-45-OP.

Volatile Organic Parameter	G101	G103
Acetone	84.2 ug/L	161.0 ug/L
2-Butanone	406.0 ug/L	164.0 ug/L
Carbon Disulfide	NE	5.52 ug/L
NE = Nonexceedence of the Standard		

41. By exceeding the groundwater standards for TDS and chloride, Respondent has not complied with Special Condition 6(b) of Permits 1971-45-OP and 1992-226-SP.

42. By exceeding the groundwater standards for Acetone, 2-Butane, and Carbon Disulfide, Respondent has not complied with Special Condition 18 of Permits 1971-45-OP and 1992-226-SP.

43. By exceeding the groundwater standards for sulfate, TDS, and chloride, Respondent has violated Sections 620.115 and 620.420(a) of the Board's Groundwater Quality Regulations, 35 Ill. Adm. Code 620.115, 620.420(a).

44. By causing or allowing the release of contaminants to the groundwater so as to cause the groundwater quality standards to be exceeded, Respondent has violated Section 620.405 of the Board's Groundwater Quality Regulations, 35 Ill. Adm. Code 620.405.

45. By causing or allowing contaminants into the groundwater, the Respondent has caused or allowed water pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2004).

46. By not notifying Illinois EPA of a change in the groundwater or submitting a plan within 30 days of a significant change in groundwater quality, Respondent has not complied with Special Condition 8(a) & 8(b) of Permits 1971-45-OP and 1992-226-SP.

47. By conducting a waste-disposal operation in violation of Permits 1971-45-OP and 1992-226-SP, Respondent has violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004) and Section 807.302 of the Board's Sanitary Landfill Regulations, 35 Ill. Adm. Code 807.302.

PRAYER FOR RELIEF

WHEREFORE, the Complainant, People of the State of Illinois, respectfully requests that this Court grant the following relief:

A. Find that the Respondent, CITY OF FLORA, has violated Sections 12(a) and 21(d)(1) of the Act, 415 ILCS 5/12(a), 21(d)(1) (2004), Sections 620.115, 620.405, and 620.420(a) of the Board's Solid Waste Regulations 35 Ill. Adm. Code 620.115, 620.405, 620.420(a), and Special Conditions 6(a), 8(a), 8(b), and 18 of Permits 1971-45-OP and 1992-226-SP.

B. Permanently enjoin the Respondent, CITY OF FLORA, from further violations of the Act and associated regulations pursuant to Section 42(e) of the Act, 415 ILCS 5/42(e) (2004);

C. Order the Respondent, CITY OF FLORA, to bring the landfill into compliance with the Act, Board regulations, and permit;

D. Pursuant to Section 42(a) of the Act, 415 ILCS 5/42(a) (2004), impose upon the Respondent, CITY OF FLORA, a monetary penalty of not more than the statutory maximum;

E. Pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2004), award the Complainant its costs in this matter, including reasonable attorney's fees and costs; and

F. Grant such other and further relief as the Court deems appropriate.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. LISA MADIGAN,
Attorney General of the
State of Illinois

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

BY: _____

THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

KRISTEN LAUGHRIDGE
Assistant Attorney General
500 South Second Street
Springfield, Illinois 62706
217/782-9031
Dated: January 12, 2006

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD JAN 18 2006

STATE OF ILLINOIS
Pollution Control Board

PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB No. 06-PCB- 133
)
CITY OF FLORA, an Illinois municipal) (Enforcement)
corporation)
)
Respondent.)

STIPULATION AND PROPOSAL FOR SETTLEMENT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, the Illinois Environmental Protection Agency ("Illinois EPA"), and the City of Flora ("Respondent"), have agreed to the making of this Stipulation and Proposal for Settlement ("Stipulation") and submit it to the Illinois Pollution Control Board ("Board") for approval. The parties agree that the statement of facts contained herein represents a fair summary of the evidence and testimony which would be introduced by the parties if a hearing were held. The parties further stipulate that this statement of facts is made and agreed upon for purposes of settlement only and that neither the fact that a party has entered into this Stipulation, nor any of the facts stipulated herein, shall be introduced into evidence in any other proceeding regarding the claims asserted in the Complaint except as otherwise provided herein. If the Board approves and enters this Stipulation, Respondent agrees to be bound by the Stipulation and Board Order and not to contest their validity in any subsequent proceeding to implement or enforce their terms.

I. JURISDICTION

The Board has jurisdiction of the subject matter herein and of the parties consenting hereto pursuant to the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/1 et seq. (2004).

II. AUTHORIZATION

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

III. STATEMENT OF FACTS

A. Parties

1. On the same date of entry as this Proposed Stipulation, a Complaint was filed on behalf of the People of the State of Illinois by Lisa Madigan, Attorney General of the State of Illinois, on her own motion and upon the request of the Illinois EPA, pursuant to Section 31 of the Act, 415 ILCS 5/31(2004), against the Respondent.

2. The Illinois EPA is an administrative agency of the State of Illinois, created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2004).

3. At all times relevant to the Complaint, Respondent, CITY OF FLORA was an Illinois municipal corporation located in Clay County, Illinois. The Respondent owns a 121 acre site known as the Flora Municipal #2 Landfill. Approximately forty acres of the site is permitted for solid waste disposal. The landfill is located off of Route 1 South in the NE 1/4 of Section 2,

Township 2N, Range 6E, Harter Township, Clay County, Illinois.

B. Site Description

1. The landfill was permitted to handle municipal refuse and municipal sewer sludge under Permit 1971-45-OP issued on November 4, 1971, and a Supplemental Permit 1992-226-SP, issued on October 1, 1993. The landfill ceased accepting waste on October 16, 1990.

2. On September 30, 2002, August 13, 2003, December 13, 2004, and March 17, 2005, Illinois EPA conducted inspections of the landfill.

3. At the landfill, there was open dumping, inadequate monitoring well conditions, the presence of cracking and erosion gulleys, and the absence of the information needed to certify closure of the landfill. The landfill was being tilled and farmed, and gasses were being released in a low-lying area. The required compact layer of two feet of suitable material was not in place in the area where the soil had been tilled. The landfill did not have vegetative growth over the entire landscape, and there was standing water in different locations on the landfill.

4. On April 23, 2003, Illinois EPA received a letter from the former City Administrator of Flora, indicating that he would no longer be the operator of the Flora Municipal #2 Landfill. Another operator had not been assigned to the landfill.

5. The Respondent had closed the landfill but had not submitted an affidavit for certification of completion of closure by a professional engineer.

6. On March 1, 2004, Illinois EPA reviewed groundwater data for the landfill from groundwater analytical information dated October 6, 2003, as well as analytical data collected

from 2000 through 2003.

7. There were four exceedences of inorganic Class II standards in the October 6, 2003 data and multiple exceedences of the inorganic Class II standards in the analytical data submitted for the January 2000 through July 2003 sampling events.

8. Illinois EPA did not receive notification from Respondent when a change in the groundwater was detected, nor did Illinois EPA receive an assessment plan within 30 days of the determination of a significant change in groundwater quality.

C. Allegations of Non-Compliance

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

Count I: Section 21(d)(2) and 21(e) of the Act, 415 ILCS 5/21(d)(2), (e) (2004) and Sections 807.305, 807.306, 807.311, 745.181, 807.502, and 807.508 of the Board's Solid Waste Regulations, 35 Ill. Adm. Code 807.305, 807.306, 807.311, 745.181, 807.502, 807.508.

Count II: Sections 12(a) and 21(d)(1) of the Act, 415 ILCS 5/12(a), 21(d)(1) (2004), Sections 620.115, 620.405, and 620.420(a) of the Board's Solid Waste Regulations 35 Ill. Adm. Code 620.115, 620.405, 620.420(a), and Special Conditions 6(a), 8(a), 8(b), and 18 of Permits 1971-45-OP and 1992-226-SP.

D. Admission of Violations

The Respondent admits to the violations alleged in the Complaint filed in this matter and referenced within Section III.C herein.

E. Compliance Activities to Date

1. On August 26, 2005, Illinois EPA certified the closure of the landfill, thus a chief operator was not longer required.

2. On August 16, 2005, the Respondent submitted an Application for Supplemental Permit Modification and the Assessment Summary Report with the Illinois EPA. The Assessment Summary Report included groundwater samples from the landfill and proposed a corrective action assessment. The groundwater samples showed elevated levels of sulfate and total dissolved solids ("TDS"). The Respondent proposed installing four additional groundwater monitoring wells on the adjacent properties west and south of the landfill to verify clean groundwater at those locations. Samples would be collected quarterly and analyzed for TDS, sulfate, and chloride.

3. The decision date by Illinois EPA for the Application for Supplemental Permit Modification and the Assessment Summary Report is November 11, 2005.

IV. APPLICABILITY

This Stipulation shall apply to and be binding upon the Complainant and the Respondent, and any officer, director, agent, or employee of the Respondent, as well as any successors or assigns of the Respondent. The Respondent shall not raise as a defense to any enforcement action taken pursuant to this Stipulation the failure of any of its officers, directors, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Stipulation.

1. No change in ownership, corporate status or operator of the facility shall in any way alter the responsibilities of the Respondent under this Stipulation and Proposal for Settlement. In the event of any conveyance of title, easement or other interest in the facility, the Respondent shall continue to be bound by and remain liable for performance of all obligations under this Stipulation.

2. In the event that the Respondent proposes to sell or transfer any real property or operations subject to any Order accepting and adopting the terms of this Stipulation and Proposal for Settlement, the Respondent shall notify the Complainant 30 days prior to the conveyance of title, ownership or other interest, including a leasehold interest in the facility or a portion thereof. The Respondent shall make the prospective purchaser or successor's compliance with any Order accepting and adopting the terms of this Stipulation a condition of any such sale or transfer and shall provide a copy of this Stipulation and any Order accepting and adopting the terms of this Stipulation to any such successor in interest. This provision does not relieve the Respondent from compliance with any regulatory requirement regarding notice and transfer of applicable facility permits.

3. The Respondent shall notify each contractor to be retained to perform work required by any Order accepting and adopting the terms of this Stipulation of each of the requirements of said Order relevant to the activities to be performed by that contractor, including all relevant work schedules and reporting deadlines, and shall provide a copy of this Stipulation and any Order accepting and adopting the terms of this Stipulation to each contractor already retained no later

than 30 days after the date of adoption of this Stipulation. In addition, the Respondent shall provide copies of all schedules for implementation of the provisions of this Stipulation to the prime vendor(s) supplying the control technology systems and other equipment required by any Order accepting and adopting the terms of this Stipulation.

V. COMPLIANCE WITH OTHER LAWS AND REGULATIONS

This Stipulation in no way affects the responsibilities of the Respondent to comply with any other federal, state or local laws or regulations including, but not limited to, the Act and the Board regulations, 35 Ill. Adm. Code, Subtitles A through H.

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

Section 33(c) of the Act, 415 ILCS 5/33(c)(2004), provides as follows:

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

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

5. any subsequent compliance.

In response to these factors, the parties state the following:

1. Human health and the environment were threatened by the Respondent's violations at the landfill.
2. There is social and economic benefit to the landfill.
3. Operation and closure of the landfill is suitable for the area in which it is in.
4. Obtaining certified closure of the landfill and submitting a supplemental permit modification and compliance with the terms of both is both technically practicable and economically reasonable.
5. Respondent has subsequently complied with the Act and the Board Regulations.

VII. CONSIDERATION OF SECTION 42(h) FACTORS

Section 42(h) of the Act, 415 ILCS 5/42(h)(2004), provides as follows:

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

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

by the respondent and other persons similarly subject to the Act;

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

In response to these factors, the parties state as follows:

1. The Respondent failed to obtain closure certification of its landfill prior to tilling and using the landfill for farming activities, and did not properly manage the landfill.

Furthermore, the Respondent failed to timely submit an Application for Supplemental Permit Modification and the Assessment Summary Report. The violations began on or around September 30, 2002, and were individually resolved at various times in 2005.

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

3. Economic Benefit was derived by the delay in certified closure of the landfill, and improper management of the landfill.

4. Complainant has determined, based upon the specific facts of this matter, that a penalty of Nine Thousand Six Hundred Dollars (\$9,600.00) will serve to deter further violations and aid in future voluntary compliance with the Act and Board regulations.

5. To Complainant's knowledge, Respondent has no previously adjudicated

violations of the Act.

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

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

VIII. TERMS OF SETTLEMENT

A. Penalty Payment

1. The Respondent shall pay a civil penalty in the sum of Nine Thousand Six Hundred Dollars (\$9,600.00) within thirty (30) days from the date the Board adopts and accepts this Stipulation. The Respondent stipulates that payment has been tendered to Respondent's attorney of record in this matter in a form acceptable to that attorney. Further, Respondent stipulates that said attorney has been directed to make the penalty payment on behalf of Respondent, within thirty (30) days from the date the Board adopts and accepts this Stipulation, in a manner prescribed below. The penalty described in this Stipulation shall be paid by certified check, money order or electronic funds transfer payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and submitted to:

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

The name and number of the case shall appear on the check. A copy of the certified check, money order or record of electronic funds transfer and any transmittal letter shall be sent to:

Kristen Laughridge

Assistant Attorney General
Environmental Bureau
500 South Second Street
Springfield, Illinois 62702

James Kropid
Assistant Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

2. Pursuant to Section 42(g) of the Act, 415 ILCS 5/42(g) (2004), interest shall accrue on any payment not paid within the time period prescribed above at the maximum rate allowable under Section 1003(a) of the Illinois Income Tax Act, 35 ILCS 5/1003 (2004). Interest on any unpaid payment shall begin to accrue from the date the payment is due and continue to accrue until the date payment is received. When partial payment(s) are made, such partial payment shall be first applied to any interest on unpaid payment then due and owing. All interest on payment owed shall be paid by certified check, money order or electronic funds transfer, payable to the Illinois EPA, designated to the Illinois Environmental Protection Trust Fund and delivered to the address and in the manner described above.

3. For purposes of payment and collection, Respondent may be reached at the following address:

Mr. Robert Coble
Coble & Milone
832 West North Ave.
P.O. Box 538
Flora, IL 62839

4. In the event of default of this Section VIII.A, the Complainant shall be entitled to

all available relief including, but not limited to, reasonable costs of collection and reasonable attorney's fees.

B. Future Use

Notwithstanding any other language in this Stipulation to the contrary, and in consideration of the mutual promises and conditions contained in this Stipulation, including the Release from Liability contained in Section VIII.F, below, the Respondent hereby agrees that this Stipulation may be used against the Respondent in any subsequent enforcement action or permit proceeding as proof of a past adjudication of violation of the Act and the Board Regulations promulgated thereunder for all violations alleged in the Complaint in this matter, for purposes of Section 39(a) and (i) and/or 42(h) of the Act, 415 ILCS 5/39(a) and(i) and/or 5/42(h)(2004). Further, Respondent agrees to waive any rights to contest, in any subsequent enforcement action or permit proceeding, any allegations that these alleged violations were adjudicated.

C. Cease and Desist

The Respondent shall cease and desist from future violations of the Act and Board Regulations that were the subject matter of the Complaint as outlined in Section III.C ("Allegations of Non-Compliance") of this Stipulation.

D. Release from Liability

In consideration of the Respondent's payment of the \$9,600.00 penalty and any specified costs and accrued interest, completion of all activities required hereunder, to Cease and Desist as

contained in Section VIII.E and upon the Pollution Control Board's acceptance and approval of the terms of this Stipulation and Proposal for Settlement, the Complainant releases, waives and discharges the Respondent from any further liability or penalties for violations of the Act and Board Regulations that were the subject matter of the Complaint herein. The release set forth above does not extend to any matters other than those expressly specified in Complainant's Complaint filed on the same date as this Proposed Stipulation. The Complainant reserves, and this Stipulation is without prejudice to, all rights of the State of Illinois against the Respondent with respect to all other matters, including but not limited to, the following:

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

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

E. Right of Entry

In addition to any other authority, the Illinois EPA, its employees and representatives, and the Attorney General, her agents and representatives, shall have the right of entry into and upon

the Respondent's facility which is the subject of this Stipulation, at all reasonable times for the purposes of carrying out inspections. In conducting such inspections, the Illinois EPA, its employees and representatives, and the Attorney General, her employees and representatives may take photographs, samples, and collect information, as they deem necessary.

F. Modification of Stipulation

The parties may, by mutual written consent, agree to extend any compliance dates or modify the terms of this Stipulation. A request for any modification shall be made in writing and submitted to the contact persons identified in Section VIII.H. Any such request shall be made by separate document, and shall not be submitted within any other report or submittal required by this Stipulation. Any such agreed modification shall be in writing, signed by authorized representatives of each party, and then accompany a joint motion to the Illinois Pollution Control Board seeking a modification of the prior order approving and accepting the Stipulation to approve and accept the Stipulation as amended.

G. Enforcement of Board Order

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

2. Respondent agrees that notice of any subsequent proceeding to enforce the Board Order approving and accepting this Stipulation and Proposal for Settlement may be made by mail and waives any requirement of service of process.

3. The parties agree that, if the Board does not approve and accept this Stipulation and Proposal for Settlement, then neither party is bound by the terms herein.

4. It is the intent of the Complainant and Respondent that the provisions of this Stipulation and Proposal for Settlement and any Board Order accepting and approving such shall be severable, and should any provision be declared by a court of competent jurisdiction to be inconsistent with state or federal law, and therefore unenforceable, the remaining clauses shall remain in full force and effect.

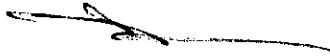
WHEREFORE, Complainant and Respondent request that the Board adopt and accept the foregoing Stipulation and Proposal for Settlement as written.

PEOPLE OF THE STATE OF ILLINOIS,

LISA MADIGAN
Attorney General
State of Illinois

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

BY:

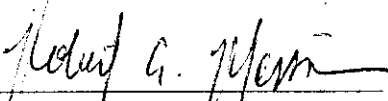


THOMAS DAVIS, Chief
Environmental Bureau
Assistant Attorney General

DATE: 12/08/05

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

BY:




ROBERT A. MESSINA
Chief Legal Counsel

DATE: 1/9/06

CITY OF FLORA

BY:



DATE: 12/06/2005

Name: Charles A. Crowder

Title: Mayor