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APR 17 2006  
STATE OF ILLINOIS  
Pollution Control Board

OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

April 13, 2006

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

PLA06-159

Re: ***People v. Gary Simmons, Individually, and Lawrence County Disposal Centre, Inc., an Illinois corporation***

Dear Clerk Gunn:

Enclosed for filing please find the original and ten copies of a Notice of Filing, Entry of Appearance and Complaint 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,

A handwritten signature in blue ink that reads "Phillip McQuillan".

Phillip McQuillan  
Environmental Bureau  
500 South Second Street  
Springfield, Illinois 62706  
(217) 782-9031

PM/pp  
Enclosures

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APR 17 2006

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF )  
 ILLINOIS, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 GARY SIMMONS, Individually, and )  
 LAWRENCE COUNTY DISPOSAL )  
 CENTRE, INC., an Illinois corporation, )  
 )  
 Respondents. )

PCB No. *de-159*  
(Enforcement)

NOTICE OF FILING

To: Gary Simmons  
P.O. Box 1852  
Vincennes, IN 47591

Gary Simmons  
2101 South Sievers Road  
Vincennes, IN 47591

Lawrence County Disposal Centre, Inc.  
c/o National Registered Agents, Inc.  
200 West Adams Street  
Chicago, IL 60606

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, a copy of which is attached hereto and herewith 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 this 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.

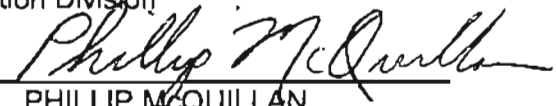
FURTHER, please take notice that financing may be available, through the Illinois Environmental Facilities Financing Act, 20 ILCS 3515/1 (2004), to correct the pollution alleged in the Complaint filed in this case.

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:   
PHILLIP MCQUILLAN  
Assistant Attorney General  
Environmental Bureau

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: April 13, 2006

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APR 17 2006

STATE OF ILLINOIS  
Pollution Control Board

CERTIFICATE OF SERVICE

I hereby certify that I did on April 13, 2006, send by certified 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, ENTRY OF APPEARANCE and COMPLAINT:

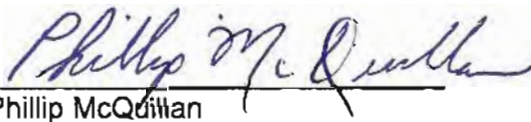
To: Gary Simmons  
P.O. Box 1852  
Vincennes, IN 47591

Gary Simmons  
2101 South Sievers Road  
Vincennes, IN 47591

Lawrence County Disposal Centre, Inc.  
c/o National Registered Agents, Inc.  
200 West Adams Street  
Chicago, IL 60606

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

  
Phillip McQuillan  
Assistant Attorney General

This filing is submitted on recycled paper.

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STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 GARY SIMMONS, Individually, and )  
 LAWRENCE COUNTY DISPOSAL )  
 CENTRE, INC., an Illinois corporation, )  
 )  
 Respondents. )

PCB No. 06-159  
(Enforcement)

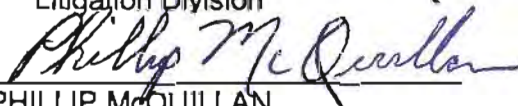
ENTRY OF APPEARANCE

On behalf of the Complainant, PEOPLE OF THE STATE OF ILLINOIS, PHILLIP McQUILLAN, Assistant Attorney General of the State of Illinois, hereby enters his appearance as attorney of record.

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:   
PHILLIP McQUILLAN  
Environmental Bureau  
Assistant Attorney General

500 South Second Street  
Springfield, Illinois 62706  
217/782-9031  
Dated: April 13, 2006

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APR 17 2006

STATE OF ILLINOIS  
Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS, )  
 ex rel. LISA MADIGAN, Attorney General )  
 of the State of Illinois, )  
 )  
 Complainant, )  
 )  
 vs. )  
 )  
 GARY SIMMONS, individually, and )  
 LAWRENCE COUNTY DISPOSAL CENTRE, INC., )  
 an Illinois corporation, )  
 )  
 Respondent. )

PCB No. 06-159  
(Enforcement)

**COMPLAINT**

The Complainant, PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, on her own motion and at the request of the Illinois Environmental Protection Agency, complains of the Respondents, GARY SIMMONS, individually, and LAWRENCE COUNTY DISPOSAL CENTRE, INC., as follows:

**COUNT 1**  
**POST-CLOSURE CARE VIOLATIONS**

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 (the "Illinois EPA"), pursuant to Section 42 of the Illinois Environmental Protection Act (the "Act"), 415 ILCS 5/42 (2004).
2. The Illinois EPA is an agency of the State of Illinois created pursuant to Section 4 of the Act, 415 ILCS 5/4 (2004), and charged, *inter alia*, with the duty of enforcing the Act.
3. The Respondent, GARY SIMMONS, is and was, at all times relevant to this Complaint, the owner and operator of a general municipal refuse landfill hereinafter referred to

as the "Lawrence County Disposal facility," or the "landfill," which is located near Sumner, Lawrence County, Illinois.

4. At all times relevant to this complaint, the Respondent, LAWRENCE COUNTY DISPOSAL CENTRE, INC., was and is an Illinois corporation in good standing and authorized to do business in the State of Illinois. Its registered agent is National Registered Agents Inc., 200 West Adams Street, Chicago, Illinois 60606.

5. The Respondent, LAWRENCE COUNTY DISPOSAL CENTRE, INC., is the owner and operator of a general municipal refuse landfill hereinafter referred to as the "Lawrence County Disposal facility," or the "landfill," which is located near Sumner, Lawrence County, Illinois.

6. The Lawrence County Disposal facility is a "sanitary landfill" as that term is defined in Section 3.445 of the Act, 415 ILCS 5/3.445 (2004), and a "waste disposal site" as that term is defined in Section 3.540 of the Act, 415 ILCS 5/3.540 (2004) and is a "municipal solid waste landfill" ("MSWLF") as that term is defined in Section 3.285 of the Act, 415 ILCS 5/3.285 (2004). The Lawrence County Disposal facility consists of approximately 27 acres and has been designated by the Illinois EPA as site number 1018020002.

7. The Lawrence County Disposal facility ceased operations pursuant to an Order entered January 12, 1994, in *People of the State of Illinois v. Gary Simmons and Lawrence County Disposal Centre, Inc.*, Lawrence County Circuit Court No. 93 CH 12. This prior enforcement case involved operational violations at the Lawrence County Disposal facility.

8. The Illinois EPA certified the closure of the Lawrence County Disposal facility on May 17, 1999, and issued Supplemental Permit No. 1997-033-LFM to the Respondents, regarding the post-closure care of the facility; the permit noted that the thirty year post-closure care period began October 1, 1998.

9. Since the landfill was certified closed, the Ambraw Valley Solid Waste Management Agency ("Am-Val") has performed numerous inspections pursuant to a delegation agreement with the Illinois EPA as authorized by Section 4(r) of the Act, 415 ILCS 5/4(r) (2004).

10. On February 19, 2001, May 9, 2001, July 5, 2001, and November 12, 2001, Am-Val inspected the Lawrence County Disposal facility to determine compliance with the permit obligations and post-closure care plan. The inspector observed inadequate fencing, gates, or other measures to control access to site. The inspector also observed erosion problems on all slopes of the landfill and several areas of failed vegetation. Landfill gas vapors with a strong methane odor were observed being emitted from the unmarked and unlocked monitoring wells.

11. On May 10, 2002, and November 8, 2002, Am-Val inspected the Lawrence County Disposal facility to determine compliance with the permit obligations and post-closure care plan. The inspector observed inadequate fencing, gates, or other measures to control access to site. The inspector also observed erosion problems on all slopes of the landfill and several areas of failed vegetation. Landfill gas vapors with a strong methane odor were observed being emitted from the unmarked and unlocked monitoring wells.

12. On February 20, 2003, Am-Val inspected the Lawrence County Disposal facility to determine compliance with the permit obligations and post-closure care plan. The inspector observed inadequate fencing, gates, or other measures to control access to site. The inspector also observed erosion problems on all slopes of the landfill and several areas of failed vegetation; however, the previously documented exposed refuse uncovered by erosion could not be observed on the northeast slope of the Lawrence County Disposal facility on February 20, 2003, because of snow cover. Landfill gas vapors with a strong methane odor were observed being emitted from the unmarked and unlocked monitoring wells.



13. On April 3, 2003, and September 9, 2003, Am-Val inspected the Lawrence County Disposal facility to determine compliance with the permit obligations and post-closure care plan. The inspector observed inadequate fencing, gates, or other measures to control access to site. The inspector also observed erosion problems on all slopes of the landfill and several areas of failed vegetation; exposed refuse uncovered by erosion was also observed on the northeast slope of the Lawrence County Disposal facility. Landfill gas vapors with a strong methane odor were observed being emitted from the unmarked and unlocked monitoring wells.

14. On May 11, 2004, and November 9, 2004, Am-Val inspected the Lawrence County Disposal facility to determine compliance with the permit obligations and post-closure care plan. The inspector observed inadequate fencing, gates, or other measures to control access to site. The inspector also observed erosion problems on all slopes of the landfill and several areas of failed vegetation; exposed refuse uncovered by erosion was also observed on the northeast slope of the Lawrence County Disposal facility. Landfill gas vapors with a strong methane odor were observed being emitted from the unmarked and unlocked monitoring wells.

15. On January 6, 2005, and May 11, 2005, and September 8, 2005, Am-Val inspected the Lawrence County Disposal facility to determine compliance with the permit obligations and post-closure care plan. The inspector observed inadequate fencing, gates, or other measures to control access to site. The inspector also observed erosion problems on all slopes of the landfill and several areas of failed vegetation; exposed refuse uncovered by erosion was also observed on the northeast slope of the Lawrence County Disposal facility. Landfill gas vapors with a strong methane odor were observed being emitted from the unmarked and unlocked monitoring wells.

16. Section 21 of the Act, 415 ILCS 5/21 (2004), provides, in the 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, including periodic reports and full access to adequate records and the inspection of facilities as may be necessary to assure compliance with the Act and with regulations and standards adopted thereunder; or
  - (2) In violation of any regulations or standards adopted by the Board under this Act;

\* \* \*

17. Section 22.17 of the Act, 415 ILCS 5/22.17 (2004), provides, in the pertinent part, as follows:

- (a) The owner and operator of a sanitary landfill site . . . shall monitor gas, water and settling at the completed site for a period of 15 years after the site is completed or closed. . . .

\* \* \*

- (b) The owner and operator of a sanitary landfill site . . . shall take whatever remedial action is necessary to abate any gas, water or settling problems which appear during such period of time specified in subsection (a). . . .

18. Section 811.107(e) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.107(e), provides as follows:

\* \* \*

- e) Maintenance.

The operator must maintain and operate all systems and related appurtenances and structures in a manner that facilitates proper operations in compliance with this Part.

\* \* \*

19. Section 811.109(a) and (b) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.109(a) and (b), provides as follows:

a) Access to the open face area of the unit and all other areas within the boundaries of the facility shall be restricted to prevent unauthorized entry at all times.

b) A permanent sign shall be posted at the entrance to the facility stating that disposal of hazardous waste is prohibited . . .

\* \* \*

20. Section 811.111(c) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.111(c), provides as follows:

\* \* \*

c) Maintenance and Inspection of the Final Cover and Vegetation:

1) Frequency of Inspections:

A) The operator shall conduct a quarterly inspection of all vegetated surfaces for a minimum of five years after closure, and after five years, the operator may reduce the frequency of annual inspections until settling has stopped and there are no eroded or scoured areas.

\* \* \*

21. Section 811.112(c), (e), (f), and (g) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.112(c), (e), (f), and (g), provides as follows:

The owner or operator of a MSWLF [Municipal Solid Waste Land Fill] unit shall record and retain near the facility in an operating record or in some alternative location specified by the Agency, the information submitted to the Agency pursuant to 35 Ill. Adm. Code 812 and 813, as it becomes available. At a minimum, the operating record shall contain the following information, even if such information is not required by 35 Ill. Adm. Code 812 or 813;

\* \* \*

c) Gas monitoring results and any remediation plans required by Sections 811.310 and 811.311;

\* \* \*

e) Any demonstration, certification, monitoring results, testing, or analytical data relating to the groundwater monitoring program required by Sections 811.319, 811.324, 811.325, and 811.326 and 35 Ill. Adm. Code 812.317, 813.501 and 813.502;

f) Closure and post-closure care plans and any monitoring, testing, or analytical data required by Sections 811.110 and 811.111, and 35 Ill. Adm. Code 812.114(h), 812.115 and 812.313; and

g) Any cost estimates and financial assurance documentation required by Subpart G of this Part.

22. Section 811.310(a),(b), (c), and (d) of the Pollution Control Board's Land

Pollution Regulations, 35 Ill. Adm. Code 811.310(a), (b), (c), and (d) provides as follows:

a) This Section applies to all units that dispose putrescible wastes.

b) Location and Design of Monitoring Wells.

1) Gas monitoring devices must be placed at intervals and elevations within the waste to provide a representative sampling of the composition and buildup of gases within the unit.

2) Gas monitoring devices must be placed around the unit at locations and elevations capable of detecting migrating gas from the ground surface to the lowest elevation of the liner system or the top elevation of the groundwater, whichever is higher.

3) A predictive gas flow model may be utilized to determine the optimum placement of monitoring points required for making observations and tracing the movement of gas.

4) Gas monitoring devices must be constructed from materials that will not react with or be corroded by the landfill gas.

5) Gas monitoring devices must be designed and constructed to measure pressure and allow collection of a representative sample of gas.

6) Gas monitoring devices must be constructed and maintained to minimize gas leakage.

7) The gas monitoring system must not interfere with the operation of the liner, leachate collection system, or delay the construction of the final cover system.

8) At least three ambient air monitoring locations must be chosen and samples must be taken no higher than 0.025 meter (1 inch) above ground and 30.49 m (100 feet) downward from the edge of the unit or at the property boundary, whichever is closer to the unit.

c) Monitoring Frequency.

- 1) All gas monitoring devices, including the ambient air monitors must be operated to obtain samples on a monthly basis for the entire operating period and for a minimum of five years after closure.
  - 2) After a minimum of five years after closure, monitoring frequency may be reduced to quarterly sampling intervals.
  - 3) The sampling frequency may be reduced to yearly sampling intervals upon the installation and operation of a gas collection system equipped with a mechanical device such as a compressor to withdraw gas.
  - 4) Monitoring must be continued for a minimum period of: thirty years after closure at MSWLF units, except as otherwise provided by subsections (c)(5) and (c)(6) of this Section; five years after closure at Landfills, other than MSWLF units, which are used exclusively for disposing of wastes generated at the site; or fifteen years after closure at all other landfills regulated under this Part. Monitoring, beyond the minimum period may be discontinued if the following conditions have been met at least one year:
    - A) The concentration of methane is less than five percent of the lower explosive limit in air for four consecutive quarters at all monitoring points outside the unit; and
    - B) Monitoring points within the unit indicate that methane is no longer being produced in quantities that would result in migration from the unit and exceed the standards of subsection (a)(1) of this Section.
  - 5) The Agency may reduce the gas monitoring period at an MSWLF unit upon a demonstration by the owner or operator that the reduced period is sufficient to protect human health and environment.
  - 6) The owner or operator of an MSWLF unit must petition the Board for an adjusted standard in accordance with Section 811.303, if the owner or operator seeks a reduction of the postclosure care monitoring period for all of the following requirements:
    - A) Inspection and maintenance (Section 811.111);
    - B) Leachate collection (Section 811.309);
    - C) Gas monitoring (Section 811.310);
    - D) Groundwater monitoring (Section 811.319).
- d) Parameters to be monitored.

1) All below ground monitoring devices must be monitored for the following parameters at each sampling interval:

- A) Methane;
- B) Pressure;
- C) Oxygen; and
- D) Carbon dioxide.

2) Ambient air monitors must be sampled for methane only when the average wind velocity is less than eight kilometers (five miles) per hour at a minimum of three downwind locations 30.49 meters (100 feet) from the edge of the unit or the property boundary, whichever is closer to the unit.

3) All buildings within a facility must be monitored for methane by utilizing continuous detection devices located at likely points where methane might enter the building.

\* \* \*

23. Section 811.312(c) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.312(c), provides as follows:

\* \* \*

c) No gas may be discharged directly to the atmosphere unless treated or burned onsite prior to discharge in accordance with a permit issued by the Agency pursuant to 35 Ill. Adm. Code 200 through 245.

\* \* \*

24. Section 811.405 of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.405, provides:

The solid waste management facility operator shall retain copies of any special waste profile identification sheets, special waste recertifications, certifications of representative sample, special waste laboratory analyses, special waste analysis plans, and any waivers of requirements (prohibitions, special waste management authorization, and operating requirements) at the facility until the end of the postclosure care period.

25. Section 811.705 of the Pollution Control Board's Land Pollution Regulations, 35

Ill. Adm. Code 811.705, provides:

- a) The owner or operator shall revise the current cost estimates for closure and postclosure care in each new application for permit renewal or where a facility modification results in an increase of the cost estimate.
- b) The owner or operator shall review the closure and postclosure care plans prior to filing a revised cost estimate in order to determine whether they are consistent with current operations, and the requirements of the Subchapter. The owner or operator shall either certify that the plans are consistent, or shall file an application incorporating new plans pursuant to 35 Ill. Adm. Code 813.
- c) The owner or operator shall prepare new closure and postclosure cost estimates reflecting current prices for the items included in the estimates when submitting any new applications for permit renewal. The owner or operator shall file revised estimates even if the owner or operator determines that there are not changes in the prices.
- d) The owner or operator of a MSWLF unit shall adjust the cost estimates of closure, postclosure, and corrective action for inflation on an annual basis during the following time period:
  - 1) The active life of the unit for closure;
  - 2) The active life and postclosure care period, for postclosure; or
  - 3) Until the corrective action program is completed in accordance with Section 811.326, for corrective action.

26. By failing to monitor gas, water, and settling at the landfill site, Respondents have violated Section 22.17(a) of the Act, 415 ILCS 5/22.17(a) (2004).

27. By failing to take remedial action necessary to abate gas, water, and settling problems, Respondents have violated Section 22.17(b) of the Act, 415 ILCS 5/22.17(b) (2004).

28. By failing to implement adequate measures to monitor and control the emission of landfill gas, the Respondents have violated Section 811.312(c) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.312(c), and thereby violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2004).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, People of the State of Illinois, respectfully requests that the Board:

A. Authorize that a hearing be held in this matter at which time Respondents, GARY SIMMONS and LAWRENCE COUNTY DISPOSAL CENTRE, INC., be required to answer the allegations herein;

B. Find that the Respondents, GARY SIMMONS and LAWRENCE COUNTY DISPOSAL CENTRE, INC., have violated Sections 21(d) and 22.17 of the Act, 415 ILCS 5/21(d) and 22.17 (2004), and Section 811.312(c) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.312(c);

C. Order the Respondents to cease and desist from further violations of the Act, associated regulations, and permit conditions;

D. Assess against the Respondents, jointly and severally, a monetary penalty of up to fifty thousand dollars (\$50,000) for each violation and up to an additional ten thousand dollars (\$10,000) for each day that the violation has continued;

E. Grant such other and further relief as the Board may deem appropriate.

**COUNT II**  
**SITE SECURITY AND MAINTENANCE VIOLATIONS**

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



18. Section 745.201 of the Pollution Control Board's Land Pollution Regulations, 35

Ill. Adm. Code 745.201, provides, in pertinent part, as follows:

\* \* \*

b) No site owner or other named permittee shall cause or allow operation of a waste disposal site unless the site chief operator has prior conduct certification.

\* \* \*

19. The Respondent has failed to provide a site chief operator with prior conduct certification in order to provide maintenance and compliance with the permit obligations and post-closure care plan.

20. By failing to provide a site chief operator with prior conduct certification, the Respondent has violated Section 745.201(b) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 745.201(b).

21. Section 811.109(a) and (b) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.109(a) and (b), provides as follows:

a) Access to the open face area of the unit and all other areas within the boundaries of the facility shall be restricted to prevent unauthorized entry at all times.

b) A permanent sign shall be posted at the entrance to the facility stating that disposal of hazardous waste is prohibited . . .

\* \* \*

22. Section 811.111(c) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.111(c), provides as follows:

\* \* \*

c) Maintenance and Inspection of the Final Cover and Vegetation:

1) Frequency of Inspections:

A) The operator shall conduct a quarterly inspection of all vegetated surfaces for a minimum of five years after closure, and after five years, the operator may reduce the frequency of annual

inspections until settling has stopped and there are no eroded or scoured areas.

23. By failing to provide adequate fencing, gates, or other measures to control access to site, the Respondents have violated Section 811.109(a) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.109(a).

24. By failing to post a permanent sign at the entrance to the facility stating that disposal of hazardous waste is prohibited, Respondents have violated Section 811.109(b) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.109(b).

25. By failing to conduct quarterly inspections of all vegetated surfaces after closure, Respondents have violated Section 811.111(c)(1)(A) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.111(c)(1)(A).

26. By failing to fill rills, gullies and crevices six inches or deeper which have been identified by Am Val, Respondents have violated Section 811.111(c)(2) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.111(c)(2).

27. By failing to revegetate those areas with failed or eroded vegetation in excess of 100 square feet, Respondents have violated Section 811.111(c)(5) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.111(c)(5).

28. By conducting a waste-storage or waste-disposal operation upon the site in violation of the Pollution Control Board's Land Pollution Regulations, the Respondents have violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2004).

### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, People of the State of Illinois, respectfully requests that the Board:

A. Authorize that a hearing be held in this matter at which time Respondents, GARY SIMMONS and LAWRENCE COUNTY DISPOSAL CENTRE, INC., be required to answer the allegations herein;

B. Find that the Respondents, GARY SIMMONS and LAWRENCE COUNTY DISPOSAL CENTRE, INC., have violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2004), and Sections 745.201(b), 811.109(a), 811.109(b), 811.111(c)(1)(A), 811.111(c)(2), and 811.111(c)(5) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 745.201(b), 811.109(a), 811.111(b), 811.111(c)(1)(A), 811.111(c)(2), and 811.111(c)(5);

C. Order the Respondents to cease and desist from further violations of the Act, associated regulations, and permit conditions;

D. Assess against the Respondents, jointly and severally, a monetary penalty of up to fifty thousand dollars (\$50,000) for each violation and up to an additional ten thousand dollars (\$10,000) for each day that the violation has continued;

E. Grant such other and further relief as the Board may deem appropriate.

**COUNT III**  
**PERMIT VIOLATIONS**

1-17. Complainant realleges and incorporates herein by reference paragraphs 1 through 17 of Count I as paragraphs 1 through 17 of this Count III.

18. Respondents are bound by the terms and conditions of Supplemental Permit No. 1997-033-LFM which is attached hereto as "Exhibit A."

19. Supplemental Permit No. 1997-033-LFM expired on June 30, 2001.

20. Condition I. 1. c. on page 7 of the permit provides:

1. The operator of this solid waste disposal facility shall not conduct the operations in a manner which results in any of the following:

c. failure to submit reports required by permits or Board regulations.

21. Section 813.501 of the Pollution Control Board's Land Pollution Regulations, 35

Ill. Adm. Code 813.501, provides as follows:

All permitted landfills shall submit an annual certification to the Agency during operation and for the entire postclosure monitoring period. Such certification shall be signed by the operator or duly authorized agent as specified in 35 Ill. Adm. Code 815.102, shall be filed each year by the first day of the month chosen and specified by the Agency in the facility permit, and shall state as follows:

a. All records required to be submitted to the Agency pursuant to 35 Ill. Adm. Code 858.207 and 858.308 have been timely and accurately submitted; and

b. All applicable fees required by the Act have been paid in full.

22. Condition I. 5. on page 7 of the permit provides:

5.. Access to the facility shall be controlled by use of fences, gates and natural barriers to prevent unauthorized entry at all times.

23. Condition I. 6. on page 7 of the permit provides:

6. A sign shall be maintained at the facility entrance containing the applicable information required under 35 Ill. Adm. Code 811.109(b).

24. Condition III. 1. on page 8 of the permit provides:

1. The annual certification shall be submitted to the Illinois EPA during the entire postclosure monitoring period. The certification shall be signed by the operator or duly authorized agent and shall be filed each year by May 1<sup>st</sup> the following year.

25. Condition III. 3. on page 9 of the permit provides:

3. All groundwater monitoring data shall be submitted to the Illinois EPA on a quarterly basis in accordance with the schedule in Special Condition XI. 11. of the water monitoring program of this permit pursuant to 35 Ill. Adm. Code 813.502.

26. Condition IV. on pages 9 and 10 of the permit provides:

1. Information developed by the operator, but not yet forwarded to the Illinois EPA in a quarterly or annual report shall be kept at or near the facility for inspection by the Illinois EPA upon request.

2. A daily summary report shall be prepared by the CQA officer, or under the direct supervision of the CQA officer in accordance with 35 Ill.

Adm. Code 811.505(a)(1-8) during each day of activity requiring CQA officer supervision.

3. Inspections of the closed landfill shall be conducted in accordance with the approved post-closure care plan. Records of field investigations, inspections, sampling and corrective action taken are to be maintained at the site and made available to Illinois EPA personnel. During the post-closure care period, those records are to be maintained at the office of the site operator.

4. The owner or operator shall record and retain near the facility in an operating record or in some alternative location specified by the Illinois EPA, the information submitted to the Illinois EPA pursuant to 35 Ill. Adm. Code 812 and 813, as it becomes available. The operating record for this facility shall be retained at the site engineer's office at Lamac Engineering Co. in Mt. Carmel, Illinois. At a minimum, the operating record shall contain the following information, even if such information is not required by 35 Ill. Adm. Code 812 or 813:

a. Any location restriction demonstration required by Section 811.302(e) and 35 Ill. Adm. Code 812.109, 812.110, 812.303, and 812.305.

b. Gas monitoring results and any remediation plans required by Sections 811.310 and 811.311.

c. Any MSWLF unit design documentation for placement of leachate or gas condensate in a MSWLF unit required by Section 811.107(m).

d. Any demonstration, certification, monitoring results, testing, or analytical data relating to the groundwater monitoring program required by Sections 811.319, 811.324, 811.325, 811.326, 812.317, 813.501 and 813.502.

e. Post-closure care plans and any monitoring, testing or analytical data required by Sections 811.110, 811.111, 812.114(h), 812.115 and 812.313; and

f. Any cost estimates and financial assurance documentation required by Subpart G of 35 Ill. Adm. Code Part 811.

27. Condition V. 7. on page 11 of the permit provides:

7. The results from gas monitoring for each year, ending December 31, shall be submitted to the Illinois EPA in the annual report required by 35 Ill. Adm. Code 813.501 as specified in Special Condition III.2 under Reporting (above).

28. Condition IX. 1. on page 13 of the permit provides:

1. Any application for renewal of a permit shall be filed with the Illinois EPA at least 90 days prior to the expiration date of the existing permit.

29. Condition IX. 3. on page 14 of the permit provides:

3. The operator shall revise the current cost estimate for post-closure care in each new application for permit renewal or where a facility modification results in an increase of the cost estimate. The operator shall either certify that the plans are consistent with current operations or shall file an application incorporating new plans pursuant to 35 Ill. Adm. Code, Part 813. The owner or operator shall adjust the cost estimate of post-closure care on an annual basis during the design period. The owner or operator shall provide financial assurance to the Illinois EPA utilizing one or more of the mechanisms listed in 35 Ill. Adm. Code 811.706(a). The owner or operator shall provide continuous coverage until the owner or operator is released from the financial assurance requirements pursuant to 35 Ill. Adm. Code 813.403(b) or 35 Ill. Adm. Code 811.326.

30. Condition XI. 9. on page 16 of the permit provides:

9. Background groundwater quality shall be determined using upgradient well G121. Background shall be established for pH and all chemical parameters in List G1 and G2.

The background values for all constituents, listed in G1 and G2 shall be calculated using a minimum of four (4) consecutive quarters of groundwater monitoring data and employing the statistical method described in Section 3.6.3 Background Monitoring. All background values shall be submitted to the Illinois EPA in a significant permit modification no later than November 15, 1998.

To date, the operator of this facility has not complied with Special Condition XI.9 of Modification No. 1 to Permit No. 1997-033-LFM, dated August 27, 1998. Issuance of this revised permit does not relieve the operator of violations incurred due to non-compliance with previous permit conditions.

31. Condition XI. 11. on page 22 of the permit provides:

11. The approved monitoring program, shall begin during the July-August 1997 sampling event and continue for at least thirty (30) years after closure and shall not cease until the conditions described in 35 IAC, 811.319(a)(1)(C) have been achieved. The operator shall collect

samples from all of the monitoring points listed in Special Condition XI.10 and report the analytical results to the Illinois EPA in accordance with the following schedule:

<u>Sampling Period</u>	<u>Parameter List</u>	<u>Report Due Date</u>
January or February	List G1	April 15
April or May	List G1 and G2	July 15
July or August	List G1	October 15
October or November	List G1	January 15

32. Condition XI. 13. on page 23 of the permit provides:

13. Pursuant to 35 IAC 811.319(a)(4)(A), any of the following events shall constitute an observed increase only if the concentration of the constituents monitored can be measured at or above the practical quantitation limit (PQL):

a. The concentration of any quarterly indicator parameter given in List G1 shows a progressive increase over four (4) quarters.

b. The concentration of any constituent given in List G1 or G2 exceeds the Class I groundwater quality standards listed in 35 IAC 620 Subpart D, or the Groundwater Standards as provided in 35 IAC 814.402(b)(3) at an established monitoring point.

c. The concentration of any organic constituent in List G2 monitored in accordance with Condition 11 of this Section exceeds the preceding measured concentration at any established point.

d. The concentration of any constituent in List G1 or G2 exceeds its background concentration.

33. Condition XI. 17. on page 24 of the permit provides:

17. Annually, the operator shall prepare an evaluation of the groundwater flow direction and the hydraulic gradients at the facility using the groundwater surface elevations (Storet #71993) determined for each monitoring event. This assessment shall be submitted with the monitoring results due on July 15.

34. By failing to submit reports required by Permit No. 1997-033-LF and Board Regulations, Respondents have violated Condition I. 1. c. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

35. By failing to prevent unauthorized entry to the landfill by means of a fence or gate or a natural barrier as required by Condition I. 5., Respondents have violated Condition I. 5. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

36. By failing to post a sign at the entrance to the landfill that provides notice as required by 35 Ill. Adm. Code 811.109(b), Respondents have violated Condition I. 6. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

37. By failing to submit to the Illinois EPA by May 1<sup>st</sup> of each year an annual certification signed by the operator or a duly authorized agent as required by Condition III. 1., Respondents have violated Condition III. 1. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

38. By failing to submit to the Illinois EPA by May 1<sup>st</sup> of each year an annual report for each calendar year pursuant to 35 Ill. Adm. Code 813.504 as required by Condition III. 2., Respondents have violated Condition III. 2. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

39. By failing to submit to the Illinois EPA on a quarterly basis all groundwater monitoring data as required by Condition III. 3. and in accordance with the schedule in Special Condition XI. 11. of the water monitoring program of this permit pursuant to 35 Ill. Adm. Code 813.502, Respondents have violated Condition III. 3. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

40. By failing to keep operating records required by 35 Ill. Adm. Code 812 and 813 available at the site engineer's office at Lamac Engineering Co., in Mt. Carmel, Illinois as required by Condition IV. 4., Respondents have violated Condition IV. 4. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).



41. By failing to submit to the Illinois EPA the results from gas monitoring for each year, ending on December 31, in the annual report required by 35 Ill. Adm. Code 813.501, as specified in Special Condition III. 2 of the permit, as required by Condition V. 7. and in accordance with Special Condition III. 2., Respondents have violated Condition V. 7. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

42. By failing to file an application to renew Permit No. 1997-033-LF which expired on June 30, 2001, Respondents have violated Condition IX. 1. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

43. By failing to file an application to renew Permit No. 1997-033-LF which expired on June 30, 2001, Respondents have also failed to revise the current cost estimates for post-closure care as required by Condition IX. 3., Respondents have violated Condition IX. 3. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

44. By failing to determine background groundwater quality as required by Condition XI. 9., and by failing to submit to the Illinois EPA the groundwater monitoring data as required by Condition XI. 9., Respondents have violated Condition XI. 9. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

45. By failing to collect groundwater samples on a quarterly basis each year as required by Condition XI. 11., and by failing to submit to the Illinois EPA the groundwater monitoring data as required by Condition XI. 11., Respondents have violated Condition XI. 11. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

46. By failing to annually prepare an evaluation of the groundwater flow direction and the hydraulic gradients at the facility using the groundwater surface elevations and by failing to

report this information to the Illinois EPA by July 15<sup>th</sup> of each year as required by Condition XI. 17., Respondents have violated Condition XI. 17. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

47. By conducting a waste-storage or waste-disposal operation upon the site in violation of the permit, the Respondent has violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, People of the State of Illinois, respectfully requests that the Board:

A. Authorize that a hearing be held in this matter at which time Respondents, GARY SIMMONS and LAWRENCE COUNTY DISPOSAL CENTRE, INC., be required to answer the allegations herein;

B. Find that the Respondents, GARY SIMMONS and LAWRENCE COUNTY DISPOSAL CENTRE, INC., have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004);

C. Order the Respondents to cease and desist from further violations of the Act, associated regulations, and permit conditions;

D. Assess against the Respondents, jointly and severally, a monetary penalty of up to fifty thousand dollars (\$50,000) for each violation and up to an additional ten thousand dollars (\$10,000) for each day that the violation has continued;

E. Grant such other and further relief as the Board may deem appropriate.

#### **COUNT IV**

#### **GROUNDWATER MONITORING VIOLATIONS**

1-15. Complainant realleges and incorporates herein by reference paragraphs 1 through 15 of Count I as paragraphs 1 through 15 of this Count IV.

16. Section 21 of the Act, 415 ILCS 5/21 (2004), provides, in the 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, including periodic reports and full access to adequate records and the inspection of facilities as may be necessary to assure compliance with the Act and with regulations and standards adopted thereunder; or
  - (2) In violation of any regulations or standards adopted by the Board under this Act;

\* \* \*

17. Section 22.17 of the Act, 415 ILCS 5/22.17 (2004), provides, in the pertinent part, as follows:

- (a) The owner and operator of a sanitary landfill site . . . shall monitor gas, water and settling at the completed site for a period of 15 years after the site is completed or closed. . . .
- (b) The owner and operator of a sanitary landfill site . . . shall take whatever remedial action is necessary to abate any gas, water or settling problems which appear during such period of time specified in subsection (a). . . .

\* \* \*

18. Section 811.318(a) and (e) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.318(a) and (e), provides:

a) All potential sources of discharges to groundwater within the facility, including, but not limited to, all waste disposal units and the leachate management system, shall be identified and studied through a network of monitoring wells operated during the active life of the unit and for the time after closure specified in accordance with Section 811.319. Monitoring wells designed and constructed as part of the monitoring network shall be maintained along with records that include, but are not limited to, exact well locations, well size, type of well, the design and construction practice used in its installation and well and screen depths.

\* \* \*

e) Standards for Sample Collection and Analysis

1) The groundwater monitoring program shall include consistent sampling and analysis procedures to assure that monitoring results can be relied upon to provide data representative of groundwater quality in the zone being monitored.

2) The operator shall utilize procedures and techniques to insure that collected samples are representative of the zone being monitored and that prevent cross contamination of samples from other monitoring wells or from other samples. At least 95 percent of a collected sample shall consist of groundwater from the zone being monitored.

3) The operator shall establish a quality assurance program that provides quantitative detection limits and the degree of error for analysis of each chemical constituent.

4) The operator shall establish a sample preservation and shipment procedure that maintains the reliability of the sample collected for analysis.

5) The operator shall institute a chain of custody procedure to prevent tampering and contamination of the collected samples prior to completion of analysis.

6) At a minimum, the operator shall sample the following parameters at all wells at the time of sample collection and immediately before filtering and preserving samples for shipment:

- A) The elevation of the water table
- B) The depth of the well below ground
- C) pH
- D) The temperature of the sample

E) Specific Conductance.

7) In addition to the requirements of subsections (e)(1) through (e)(6), the following requirements shall apply to MSWLF units:

A) Each time groundwater is sampled, and owner or operator of a MSWLF unit shall:

i) Measure the groundwater elevations in each well immediately prior to purging; and

ii) Determine the rate and direction of groundwater flow.

B) An owner or operator shall measure groundwater elevations in wells which monitor the same waste management area within a period of time short enough to avoid temporal variations in groundwater flow which could preclude accurate determination of groundwater flow rate and direction.

19. Section 811.319(a)(1) of the Pollution Control Board's Land Pollution

Regulations, 35 Ill. Adm. Code 811.319(a)(1), provides:

a) Detection Monitoring Program. Any use of the term maximum allowable predicted concentration in this Section is a reference to Section 811.318(c). The operator shall implement a detection monitoring program in accordance with the following requirements:

1) Monitoring Schedule and Frequency.

A) The monitoring period shall begin as soon as waste is placed into the unit of a new landfill or within one year of the effective date of this Part for an existing landfill. Monitoring shall continue for a minimum period of fifteen years after closure, or in the case of MSWLF units, a minimum period of 30 years after closure, except as otherwise provided by subsection (a)(1)(C) of this Section. The operator shall sample all monitoring points for all potential sources on contamination on a quarterly basis except as specified in subsection (a)(3), for a period of five years from the date of issuance of the initial permit for significant modification under 35 Ill. Adm. Code 814.104 or a permit for a new unit pursuant to 35 Ill. Adm. Code 813.104. After the initial five-year period, the sampling frequency for each monitoring point shall be reduced to a semi-annual basis, provided the operator has submitted the certification described in 35 Ill. Adm. Code 813.304(b). Alternatively, after the initial five-year period, the

Agency shall allow sampling on a semi-annual basis where the operator demonstrates that monitoring effectiveness has not been compromised, that sufficient quarterly data has been collected to characterize groundwater, and that leachate from the monitored unit does not constitute a threat to groundwater. For the purposes of this Section, the source shall be considered a threat to groundwater if the results of the monitoring indicate either that the concentrations of any of the constituents monitored within the zone on attenuation is above the maximum allowable predicted concentration for that constituent or, for existing landfills, subject to 35 Ill. Adm. Code 814, Subpart D, that the concentration of any constituent has exceeded the applicable standard at the compliance boundary as defined in 35 Ill. Adm. Code 814.402(b)(3).

20. Section 811.320(d)(1) of the Pollution Control Board's Land

Pollution Regulations, 35 Ill. Adm. Code 811.320(d)(1), provides:

d) Establishment of Background Concentrations

1) The initial monitoring to determine background concentrations shall commence during the hydrogeological assessment required by Section 811.315. The background concentrations for those parameters identified in Sections 811.315(e)(1)(G) and 811.319(a)(2) and (a)(3) shall be established based on quarterly sampling of wells for one year, monitored in accordance with the requirements of subsections (d)(2), (d)(3) and (d)(4), which may be adjusted during the operation of a facility. Statistical tests and procedures shall be employed, in accordance with subsection (e), depending on the number, type and frequency of samples collected from the wells, to establish the background concentrations. Adjustments to the background concentrations shall be made only if changes in the concentrations of constituents observed in upgradient wells over time are determined, in accordance with subsection (e), to be statistically significant. Background concentrations determined in accordance with this subsection shall be used for the purposes of establishing groundwater quality standards, in accordance with this subsection. The operator shall maintain such a list at the facility, shall submit a copy of the list to the Agency for establishing standards in accordance with subsection (a), and shall provide updates to the list within ten days of any change to the list.

\* \* \*

21. Section 813.502(a) of the Pollution Control Board's Land Pollution Regulations,

35 Ill. Adm. Code 813. 502(a), provides:

a) All groundwater monitoring data shall be submitted to the Agency at the same frequency as established for groundwater detection monitoring pursuant to Section 811.319(a), in a form prescribed by the Agency, and in accordance with a schedule approved in the permit.

\* \* \*

22. Condition III. 3. on page 9 of the permit provides:

3. All groundwater monitoring data shall be submitted to the Illinois EPA on a quarterly basis in accordance with the schedule in Special Condition XI. 11. of the water monitoring program of this permit pursuant to 35 Ill. Adm. Code 813.502.

23. Condition XI. 9. on page 16 of the permit provides:

9. Background groundwater quality shall be determined using upgradient well G121. Background shall be established for pH and all chemical parameters in List G1 and G2.

The background values for all constituents, listed in G1 and G2 shall be calculated using a minimum of four (4) consecutive quarters of groundwater monitoring data and employing the statistical method described in Section 3.6.3 Background Monitoring. All background values shall be submitted to the Illinois EPA in a significant permit modification no later than November 15, 1998.

To date, the operator of this facility has not complied with Special Condition XI.9 of Modification No. 1 to Permit No. 1997-033-LFM, dated August 27, 1998. Issuance of this revised permit does not relieve the operator of violations incurred due to non-compliance with previous permit conditions.

24. Condition XI. 11. on page 22 of the permit provides:

11. The approved monitoring program, shall begin during the July-August 1997 sampling event and continue for at least thirty (30) years after closure and shall not cease until the conditions described in 35 IAC, 811.319(a)(1)(C) have been achieved. The operator shall collect samples from all of the monitoring points listed in Special Condition XI.10 and report the analytical results to the Illinois EPA in accordance with the following schedule:

<u>Sampling Period</u>	<u>Parameter List</u>	<u>Report Due Date</u>
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January or February	List G1	April 15
April or May	List G1 and G2	July 15
July or August	List G1	October 15
October or November	List G1	January 15

25. Condition XI. 17. on page 24 of the permit provides:

17. Annually, the operator shall prepare an evaluation of the groundwater flow direction and the hydraulic gradients at the facility using the groundwater surface elevations (Storet #71993) determined for each monitoring event. This assessment shall be submitted with the monitoring results due on July 15.

26. By failing to determine background concentrations for those constituent parameters identified in Sections 811.315(e)(1)(G) and 811.319(a)(2) and (a)(3) to establish background groundwater quality, Respondents have violated Section 811.320(d)(1) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.320(d)(1) and Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2004).

27. By failing to perform quarterly groundwater monitoring during any time during calendar years 1999, 2000, 2001, 2002, 2003, 2004, and 2005, Respondents have violated Section 811.319(a)(1) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.319 (a)(1) and have violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2004).

28. By failing to submit all groundwater monitoring data pursuant to Section 811.319(a) of the Pollution Control Board's Land Pollution Regulations and pursuant to the permit, Respondents have violated Section 813.502(a) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 813.502(a) and have violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2004).

29. By failing to monitor groundwater at the facility, Respondents have violated Section 22.17(a) of the Act, 415 ILCS 5/22.17(a) (2004).



30. By failing to submit to the Illinois EPA on a quarterly basis all groundwater monitoring data as required by Condition III. 3. and in accordance with the schedule in Special Condition XI. 11. of the water monitoring program of this permit pursuant to 35 Ill. Adm. Code 813.502, Respondents have violated Condition III. 3. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

31. By failing to determine background groundwater quality as required by Condition XI. 9., and by failing to submit to the Illinois EPA the groundwater monitoring data as required by Condition XI. 9., Respondents have violated Condition XI. 9. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

32. By failing to collect groundwater samples on a quarterly basis each year as required by Condition XI. 11., and by failing to submit to the Illinois EPA the groundwater monitoring data as required by Condition XI. 11., Respondents have violated Condition XI. 11. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

33. By failing to annually prepare an evaluation of the groundwater flow direction and the hydraulic gradients at the facility using the groundwater surface elevations and by failing to report this information to the Illinois EPA by July 15<sup>th</sup> of each year as required by Condition XI. 17. of the permit, Respondents have violated Condition XI. 17. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

#### **PRAYER FOR RELIEF**

WHEREFORE, Complainant, People of the State of Illinois, respectfully requests that the Board:

A. Authorize that a hearing be held in this matter at which time Respondents, GARY SIMMONS and LAWRENCE COUNTY DISPOSAL CENTRE, INC., be required to answer the allegations herein;

B. Find that the Respondents, GARY SIMMONS and LAWRENCE COUNTY DISPOSAL CENTRE, INC., have violated Sections 21(d)(1), 21(d)(2), and 22.17(a) of the Act, 415 ILCS 5/21(d)(1), 21(d)(2), and 22.17(a) (2004), and Sections 811.319(a)(1), 811.320(d)(1), and 813.502(a) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.319(a)(1), 811.320(d)(1), and 813.502(a);

C. Order the Respondents to cease and desist from further violations of the Act, associated regulations, and permit conditions;

D. Assess against the Respondents, jointly and severally, a monetary penalty of up to fifty thousand dollars (\$50,000) for each violation and up to an additional ten thousand dollars (\$10,000) for each day that the violation has continued;

E. Grant such other and further relief as the Board may deem appropriate.

## COUNT V

### GAS MONITORING VIOLATIONS

1-15. Complainant realleges and incorporates herein by reference paragraphs 1 through 15 of Count I as paragraphs 1 through 15 of this Count V.

16. Section 21 of the Act, 415 ILCS 5/21 (2004), provides, in the 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, including periodic reports and full access to adequate records and the inspection of facilities as may be necessary to assure compliance with the Act and with regulations and standards adopted thereunder; or
- (2) In violation of any regulations or standards adopted by the Board under this Act;

\* \* \*

17. Section 22.17 of the Act, 415 ILCS 5/22.17 (2004), provides, in the pertinent part, as follows:

- (a) The owner and operator of a sanitary landfill site . . . shall monitor gas, water and settling at the completed site for a period of 15 years after the site is completed or closed. . . .

\* \* \*

- (b) The owner and operator of a sanitary landfill site . . . shall take whatever remedial action is necessary to abate any gas, water or settling problems which appear during such period of time specified in subsection (a). . . .

\* \* \*

18. Section 811.112(c) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.112(c), provides as follows:

The owner or operator of a MSWLF [Municipal Solid Waste Land Fill] unit shall record and retain near the facility in an operating record or in some alternative location specified by the Agency, the information submitted to the Agency pursuant to 35 Ill. Adm. Code 812 and 813, as it becomes available. At a minimum, the operating record shall contain the following information, even if such information is not required by 35 Ill. Adm. Code 812 or 813;

\* \* \*

- c) Gas monitoring results and any remediation plans required by Sections 811.310 and 811.311;

\* \* \*

19. Section 811.310(a),(b), (c), and (d) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.310(a), (b), (c), and (d) provides as follows:

- a) This Section applies to all units that dispose putrescible wastes.
- b) Location and Design of Monitoring Wells.
  - 1) Gas monitoring devices must be placed at intervals and elevations within the waste to provide a representative sampling of the composition and buildup of gases within the unit.
  - 2) Gas monitoring devices must be placed around the unit at locations and elevations capable of detecting migrating gas from the ground surface to the lowest elevation of the linear system or the top elevation of the groundwater, whichever is higher.
  - 3) A predictive gas flow model may be utilized to determine the optimum placement of monitoring points required for making observations and tracing the movement of gas.
  - 4) Gas monitoring devices must be constructed from materials that will not react with or be corroded by the landfill gas.
  - 5) Gas monitoring devices must be designed and constructed to measure pressure and allow collection of a representative sample of gas.
  - 6) Gas monitoring devices must be constructed and maintained to minimize gas leakage.
  - 7) The gas monitoring system must not interfere with the operation of the liner, leachate collection system, or delay the construction of the final cover system.
  - 8) At least three ambient air monitoring locations must be chosen and samples must be taken no higher than 0.025 meter (1 inch) above ground and 30.49 m (100 feet) downward from the edge of the unit or at the property boundary, whichever is closer to the unit.
- c) Monitoring Frequency.
  - 1) All gas monitoring devices, including the ambient air monitors must be operated to obtain samples on a monthly basis for the entire operating period and for a minimum of five years after closure.
  - 2) After a minimum of five years after closure, monitoring frequency may be reduced to quarterly sampling intervals.

3) The sampling frequency may be reduced to yearly sampling intervals upon the installation and operation of a gas collection system equipped with a mechanical device such as a compressor to withdraw gas.

4) Monitoring must be continued for a minimum period of: thirty years after closure at MSWLF units, except as otherwise provided by subsections (c)(5) and (c)(6) of this Section; five years after closure at Landfills, other than MSWLF units, which are used exclusively for disposing of wastes generated at the site; or fifteen years after closure at all other landfills regulated under this Part. Monitoring, beyond the minimum period may be discontinued if the following conditions have been met at least one year:

A) The concentration of methane is less than five percent of the lower explosive limit in air for four consecutive quarters at all monitoring points outside the unit; and

B) Monitoring points within the unit indicate that methane is no longer being produced in quantities that would result in migration from the unit and exceed the standards of subsection (a)(1) of this Section.

5) The Agency may reduce the gas monitoring period at an MSWLF unit upon a demonstration by the owner or operator that the reduced period is sufficient to protect human health and environment.

6) The owner or operator of an MSWLF unit must petition the Board for an adjusted standard in accordance with Section 811.303, if the owner or operator seeks a reduction of the postclosure care monitoring period for all of the following requirements:

A) Inspection and maintenance (Section 811.111);

B) Leachate collection (Section 811.309);

C) Gas monitoring (Section 811.310);

D) Groundwater monitoring (Section 811.319).

d) Parameters to be monitored.

1) All below ground monitoring devices must be monitored for the following parameters at each sampling interval:

A) Methane;

B) Pressure;

- C) Oxygen; and
- D) Carbon dioxide.

2) Ambient air monitors must be sampled for methane only when the average wind velocity is less than eight kilometers (five miles) per hour at a minimum of three downwind locations 30.49 meters (100 feet) from the edge of the unit or the property boundary, whichever is closer to the unit.

3) All buildings within a facility must be monitored for methane by utilizing continuous detection devices located at likely points where methane might enter the building.

\* \* \*

20. Section 811.311(b) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.311(b), provides as follows:

b) If methane gas levels exceed the limits specified in subsections (a)(1) or (a)(2), an operator of a MSWLF shall:

- 1) Notify the Agency in writing, within two business days, of an observed exceedance; and
- 2) Implement the requirements of this Section to ensure the protection of human health.

21. Section 811.312(c) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.312(c), provides as follows:

\* \* \*

c) No gas may be discharged directly to the atmosphere unless treated or burned onsite prior to discharge in accordance with a permit issued by the Agency pursuant to 35 Ill. Adm. Code 200 through 245.

\* \* \*

22. Condition III. 2. a. on page 8 of the permit provides:

2. The operator shall submit an annual report for each calendar year to the Illinois EPA by May 1<sup>st</sup> of the following year pursuant to 35 Ill. Adm. Code 813.504. The annual report shall include:

- a. Information relating to monitoring data from any leachate collection system, the groundwater monitoring network, gas

monitoring system, and any other monitoring data specified in this permit including:

1. Summary of monitoring data for the calendar year;
2. Dates of submittal of comprehensive monitoring data to the Illinois EPA during the calendar year;
3. Statistical summaries and analysis of trends;
4. Changes to the monitoring program; and
5. Discussion of error analysis, detection limits and observed trends.

23. It is likely that the failed vegetation at the landfill is due at least in part to the injurious effects of the landfill gas emissions.

24. By causing or allowing the emission of landfill gas directly into the environment, the Respondents have violated Section 811.312(c) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.312(c) and have violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2004).

25. By failing to check gas monitoring devices and by failing to obtain ambient air samples on a monthly basis as required by Section 811.310(c) of the Pollution Control Board's Land Pollution Regulations and pursuant to the permit, Respondents have violated Section 811.310(c) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.310(c) and have violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2004).

26. By failing to submit to the Illinois EPA the results from gas monitoring for each year, ending on December 31, in the annual report required by 35 Ill. Adm. Code 813.501, as specified in Special Condition III. 2 of the permit, as required by Condition V. 7. and in accordance with Special Condition III. 2., Respondents have violated Condition V. 7. of Permit No. 1997-033-LF and have violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (2004).

27. By failing to monitor gas at the facility, Respondents have violated Section 22.17(a) of the Act, 415 ILCS 5/22.17(a) (2004).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, People of the State of Illinois, respectfully requests that the Board:

A. Authorize that a hearing be held in this matter at which time Respondents, GARY SIMMONS and LAWRENCE COUNTY DISPOSAL CENTRE, INC., be required to answer the allegations herein;

B. Find that the Respondents, GARY SIMMONS and LAWRENCE COUNTY DISPOSAL CENTRE, INC., have violated Sections 21(d)(1), 21(d)(2), and 22.17(a) of the Act, 415 ILCS 5/21(d)(1), 21(d)(2), and 22.17(a) (2004), and Sections 811.310(c), 811.312(c), and 813.501 of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.310(c), 811.312(c), and 813.501;

C. Order the Respondents to cease and desist from further violations of the Act, associated regulations, and permit conditions;

D. Assess against the Respondents, jointly and severally, a monetary penalty of up to fifty thousand dollars (\$50,000) for each violation and up to an additional ten thousand dollars (\$10,000) for each day that the violation has continued;

E. Grant such other and further relief as the Board may deem appropriate.

**COUNT VI**  
**AIR POLLUTION VIOLATIONS**

1-17. Complainant realleges and incorporates herein by reference paragraphs 1 through 17 of Count I as paragraphs 1 through 17 of this Count VI.

18. Section 9 of the Act, 415 ILCS 5/9 (2004), provides, in pertinent part, as follows:



No person shall:

- (a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act.

\* \* \*

- 19. Section 3.115 of the Act, 415 ILCS 5/3.115 (2004), provides that:

"Air pollution" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

- 20. Section 811.312(c) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.312(c), provides as follows:

\* \* \*

c) No gas may be discharged directly to the atmosphere unless treated or burned onsite prior to discharge in accordance with a permit issued by the Agency pursuant to 35 Ill. Adm. Code 200 through 245.

\* \* \*

- 21. It is likely that the failed vegetation at the landfill is due at least in part to the injurious effects of the landfill gas emissions.

22. By causing or allowing the emission of landfill gas into the environment so as to cause or tend to cause air pollution, the Respondents have violated Section 811.312(c) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.312(c).

23. By conducting a waste-storage or waste-disposal operation upon the site in violation of the regulations, the Respondents have violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (2004).

24. By causing or allowing the emission of landfill gas into the environment so as to cause or tend to cause air pollution in Illinois or so as to violate regulations or standards adopted by the Board, the Respondents have violated Section 9(a) of the Act, 415 ILCS 5/9(a) (2004).

**PRAYER FOR RELIEF**

WHEREFORE, Complainant, People of the State of Illinois, respectfully requests that the Board:

A. Authorize that a hearing be held in this matter at which time Respondents, GARY SIMMONS and LAWRENCE COUNTY DISPOSAL CENTRE, INC., be required to answer the allegations herein;

B. Find that the Respondents, GARY SIMMONS and LAWRENCE COUNTY DISPOSAL CENTRE, INC., have violated Sections 9(a) and 21(d)(2) of the Act, 415 ILCS 5/9(a) and 21(d)(2) (2004), and Section 811.312(c) of the Pollution Control Board's Land Pollution Regulations, 35 Ill. Adm. Code 811.312(c);

C. Order the Respondents to cease and desist from further violations of the Act, associated regulations, and permit conditions;

D. Assess against the Respondents, jointly and severally, a monetary penalty of up to fifty thousand dollars (\$50,000) for each violation and up to an additional ten thousand dollars (\$10,000) for each day that the violation has continued;


E. Grant such other and further relief as the Board may deem 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  
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BY:   
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Dated: April 12, 2006