

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,
 ex rel. JAMES E. RYAN, Attorney)
 General of the State of Illinois,

) ORIGINAL
)
)

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 CLERK'S OFFICE

NOV 24 1999

Complainant,

-vs-

COMMUNITY LANDFILL COMPANY, INC.,
 an Illinois corporation,

Respondent.

)
)
) PCB No. 97-193
) (Enforcement)
)
)
)
)

STATE OF ILLINOIS
 Pollution Control Board

NOTICE OF FILING

TO: Dorothy Gunn, Clerk
 Illinois Pollution Control Board
 James R. Thompson Center
 100 West Randolph Street
 Chicago, IL 60601

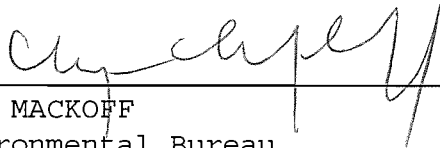
Mark A. LaRose, Esq.
 Mark A. LaRose, Ltd.
 734 North Wells Street
 Chicago, IL 60610

John Knittle
 Hearing Officer
 Illinois Pollution Control Board
 100 W. Randolph St. 11th Floor
 Chicago, IL 60601

PLEASE TAKE NOTICE that on November 24, 1999, I filed with the Clerk of the Illinois Pollution Control Board Complainant's Motion For Leave To File Second Amended Complaint and Second Amended Complaint, a copy of which is attached and herewith served upon you.

Respectfully submitted

JAMES E. RYAN
 Attorney General
 State of Illinois

By: 
 MIKE MACKOFF
 Environmental Bureau
 Assistant Attorney General
 100 West Randolph Street, 11th Flr.
 Chicago, IL 60601
 (312) 814-3094

THIS FILING IS SUBMITTED ON RECYCLED PAPER

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. JAMES E. RYAN, Attorney)
General of the State of Illinois,

Complainant,

-vs-

COMMUNITY LANDFILL COMPANY, INC.,
an Illinois corporation,

Respondent.

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) (Enforcement) STATE OF ILLINOIS
) POLLUTION CONTROL BOARD
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MOTION TO FILE SECOND AMENDED COMPLAINT

NOW COMES Complainant, PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, and moves this Honorable Board for leave to file a Second Amended Complaint. In support of this motion Complainant states as follows:

1. On May 1, 1997, Complainant filed its Complaint against Respondent alleging various violations of the Illinois Environmental Protection Act and the Pollution Control Board Waste Disposal regulations.

2. Since the filing of this action, additional matters have come to the attention of the Complainant warranting the amendment of the complaint to add additional violations.

3. It is in the interest of the parties and the promotion of judicial economy to have all of these matters resolved in this currently pending action.

WHEREFORE, Complainant moves for leave to file its Second Amended
Complaint.

Respectfully submitted

JAMES E. RYAN
Attorney General
State of Illinois

By: 

MIKE MACKOFF,
Environmental Bureau
Assistant Attorney General
100 West Randolph Street, 11th Flr.
Chicago, IL 60601
(312) 814-2381

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. JAMES E. RYAN, Attorney
General of the State of Illinois,

Complainant,

-vs-

COMMUNITY LANDFILL CO.,
an Illinois corporation,

Respondent.

) ORIGINAL)

RECEIVED
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NOV 24 1999

STATE OF ILLINOIS
Pollution Control Board

))
) PCB No. 97-193
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SECOND AMENDED COMPLAINT

Complainant, PEOPLE OF THE STATE OF ILLINOIS, ex rel. JAMES E. RYAN, Attorney General of the State of Illinois, on his own motion, complains of Respondent, COMMUNITY LANDFILL CO., an Illinois Corporation, as follows:

COUNT I

FAILURE TO ADEQUATELY MANAGE REFUSE AND LITTER

1. This count is brought on behalf of the PEOPLE OF THE STATE OF ILLINOIS, by JAMES E. RYAN, Attorney General of the State of Illinois, on his own motion, pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (1998).

2. The Illinois Environmental Protection Agency ("Illinois EPA") is an administrative agency established in the executive branch of the state government by Section 4 of the Act, 415 ILCS 5/4 (1998), and charged, *inter alia*, with the duty of enforcing the Act.

3. At all times relevant to this Complaint, Respondent, COMMUNITY LANDFILL CO., ("CLC"), an Illinois corporation, has operated a sanitary landfill located at 1501 Ashley Road, Morris, Grundy

County, Illinois, ("landfill" or "site").

4. The landfill consists of approximately 119 acres within the Northwest 1/4 of Section 2 of the Northeast 1/4 of Section 3, Township 33 North Range 7 East, and in the Southeast 1/4 of Section 34 and the Southwest 1/4 of Section 35, Township 34 North Range 7 East, all in the Third Principal Meridian, in Grundy County, Illinois.

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

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

7. Parcel B is approximately 64 acres in size.

8. Section 3.08 of the Act, 415 ILCS 5/3.08 (1998), provides the following definition:

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

9. Section 3.20 of the Act, 415 ILCS 5/3.20 (1998), provides the following definition:

"LANDSCAPE WASTE" means all accumulations of grass or shrubbery, cuttings, leaves, tree limbs and other materials accumulated as the result of the care of lawns, shrubbery, vines and trees.

10. Section 3.26 of the Act, 415 ILCS 5/3.26 (1998), provides the following definition:

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

their legal representative, agent or assigns.

11. Section 3.41 of the Act, 415 ILCS 5/3.41 (1998), provides the following definition:

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

12. Section 3.53 of the Act, 415 ILCS 5/3.53 (1998), provides the following definition:

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

13. Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (1998), provides as follows:

No person shall:

* * *

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

* * *

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

* * *

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

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

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

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

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

19. During the July 28, 1998 inspection, there was uncovered waste from previous operating days in parcel A.

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

21. On May 11, 1999, the landfill was accepting waste, and there was uncovered waste at the site including uncovered bags of asbestos containing waste material (ACWM).

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

23. Section 21(o) of the Act, 415 ILCS 5/21(o) (1998), provides, in pertinent part, as follows:

No person shall:

* * *

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

1. refuse in standing or flowing waters;

* * *

5. uncovered refuse remaining from any previous operating day or at the conclusion of any operation day, unless authorized by permit;

* * *

12. failure to collect and contain litter from the site by the end of each operating day.

24. Respondent, a corporation which operates a landfill in Illinois, is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

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

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

26. Litter and refuse are waste as that term is defined in Section 3.53 of the Act, 415 ILCS 5/3.53 (1998).

27. The site is a sanitary landfill that requires a permit under Section 21(d) of the Act, 415 ILCS 5/21(d) (1998).

28. By leaving refuse in perimeter ditches and the retention pond on March 22, 1995, and by leaving refuse in perimeter ditches on May 22, 1995, Respondent has violated Section 21(o) (1) of the Act, 415 ILCS 5/21(o) (1) (1998).

29. By allowing leachate seeps to erode areas of the landfill and expose previously covered refuse, at least on May 22, 1995, Respondent has violated Section 21(o) (5) of the Act, 415 ILCS 5/21(o) (5) (1998).

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

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count I:

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

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

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

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

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

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

COUNT II

FAILURE TO PREVENT OR CONTROL LEACHATE FLOW

1-14. Complainant realleges and incorporates by reference herein paragraphs 1 through 14 of Count I as paragraphs 1 through 14 of this Count II as if fully set forth herein.

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

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

17. During the May 22, 1995, inspection, the Illinois EPA inspector observed numerous leachate seeps along the north slope of the landfill and in the north perimeter ditch which eventually drains into the Illinois River.

18. Section 21(o) of the Act, 415 ILCS 5/21(o) (1998), provides, in pertinent part, as follows:

No person shall:

* * *

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

* * *

2. leachate flows entering waters of the State;
3. leachate flows exiting the landfill confines (as determined by the boundaries established for the landfill by a permit issued by the Agency);

* * *

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

Except as otherwise authorized in writing by the Agency, no person shall cause or allow the development or operation of a sanitary landfill which does not provide:

* * *

e) Adequate measures to monitor and control leachate;

20. Respondent, a corporation which operates a landfill in Illinois, is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

21. Section 3.56 of the Act, 415 ILCS 5/3.56 (1998), contains the following definition:

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

22. The Illinois River is a "water" of the State of Illinois, as that term is defined in Section 3.56 of the Act.

23. By allowing leachate seeps to exit the landfill boundaries and enter waters of the State, and by failing to control leachate flow, Respondent has violated Sections 21(d)(2), and 21(o)(2) and (3) of the Act, 415 ILCS 5/21(d)(2) and 21(o)(2) and (3) (1998), and Section 807.314(e) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.314(e).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count II:

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

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

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

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

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

pursuit of this action; and

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

COUNT III

FAILURE TO PROPERLY DISPOSE OF LANDSCAPE WASTE

1-13. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count III as if fully set forth herein.

14. Section 22.22(c) of the Act, 415 ILCS 5/22.22(c) (1998), provides as follows:

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

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

16. On July 28, 1998, the Respondent was landfilling landscape waste at the site in Parcel A.

17. By landfilling landscape waste, Respondent has violated Section 22.22(c) of the Act, 415 ILCS 5/22.22(c) (1998).

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

CLC, with respect to Count III:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has caused or allowed violations of Section 22.22(c) of the Act;
3. Ordering Respondent to cease and desist from any further violations of Section 22.22(c) of the Act;
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent for each violation, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;
5. Requiring Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate.

COUNT IV

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

1-13. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count IV as if fully set forth herein.

14. Section 21.1(a) of the Act, 415 ILCS 5/21.1(a) (1998), provides as follows:

- a. Except as provided in subsection (a.5) no person other than the State of Illinois, its agencies and institutions, or a unit of local government shall conduct any waste disposal operation on or after March

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

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

No person shall conduct a waste disposal operation or indefinite storage operation which requires a permit under Section 21(d) of the Act unless such person has provided financial assurance in accordance with this Subpart.

- a) The financial assurance requirement does not apply to the State of Illinois, its agencies and institutions, or to any unit of local government; provided, however, that any other persons who conduct such a waste disposal operation on a site which may be owned or operated by such a government entity must provide financial assurance for closure and post-closure care of the site.

16. Respondent, a corporation which operates a landfill in Illinois, is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998), and as contemplated by Section 21.1(a) of the Act, 415 ILCS 5/21.1(a) (1998).

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

- b) The operator must increase the total amount of financial assurance so as to equal the current cost estimate within 90 days after any of the following:

- 1) An increase in the current cost estimate;

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

19. Item 3 of Respondent's supplemental permit dated April 20, 1993, approved the Respondent's current cost estimate for \$1,342,500.00.

20. Respondent failed to increase the total amount of financial assurance to \$1,342,500.00, within 90 days after the Agency approved its cost estimate on April 20, 1993.

21. Respondent provided a performance bond on June 20, 1996.

22. By failing to provide adequate financial assurance Respondent has violated Section 21.1(a) of the Act, 415 ILCS 5/21.1(a) (1998), and Section 807.601(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.601(a).

23. By failing to adequately increase the financial assurance amount by July 19, 1993 (90 days after the Agency approved its cost estimate on April 20, 1993), Respondent has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (1998), and Section 807.603(b)(1) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 807.603(b)(1).

24. Respondent was out of compliance with Section 21.1(a) of the Act, 415 ILCS 5/21.1(a) (1998), 35 Ill. Adm. Code 807.601(a) and 807.603(b)(1) from July 19, 1993 until June 20, 1996.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count IV:

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

2. Finding that Respondent has violated Sections 21(d)(2) and

21.1(a) of the Act, and Sections 807.601(a), and 807.603(b) (1) of the Board's Waste Disposal Regulations;

3. Ordering Respondent to cease and desist from any further violations of Sections 21(d) (2) and 21.1(a) of the Act, and Sections 807.601(a), and 807.603(b) (1) of the Board's Waste Disposal Regulations;

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

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

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

COUNT V

FAILURE TO TIMELY FILE THE REQUIRED
APPLICATION FOR A SIGNIFICANT MODIFICATION

1-13. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count V as if fully set forth herein.

14. Respondent, a corporation which operates a landfill in Illinois is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

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

a. All owners or operators of landfills permitted

pursuant to Section 21(d) of the Environmental Protection Act (Act) (Ill. Rev. Stat. 1991, ch. 111 ½, par. 1021(d) [415 ILCS 5/21(d)] shall file an application for a significant modification to their permits for existing units, unless the units will be closed pursuant to Subpart E within two years of the effective date of this Part.

- b. The owner or operator of an existing unit shall submit information required by 35 Ill. Adm. Code 812 to demonstrate compliance with Subpart B, Subpart C or Subpart D of this Part, whichever is applicable.
- c. The application shall be filed within 48 months of the effective date of this Part, or at such earlier time as the Agency shall specify in writing pursuant to 35 Ill. Adm. Code 807.209 or 813.201(b).
- d. The application shall be made pursuant to the procedures of 35 Ill. Adm. Code 813.

16. The Respondent failed to file the required significant modification for Parcel B by June 15, 1993.

17. Respondent finally filed the required significant modification on August 5, 1996, pursuant to a prospective variance issued by the Board.

18. By failing to file the required significant modification for Parcel B by June 15, 1993, the Respondent has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2)(1998), and Section 814.104 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 814.104.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count V:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 21(d)(2) of

the Act and Section 814.104 of the Board's Waste Disposal Regulations;

3. Ordering Respondent to cease and desist from any further violations of Section 21(d)(2) of the Act or Section 814.104 of the Board's Waste Disposal Regulations;

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

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

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

COUNT VI

WATER POLLUTION

1-18. Complainant realleges and incorporates by reference herein, paragraphs 1 through 18 of Count I as paragraphs 1 through 18 of this Count VI as if fully set forth herein.

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

20. Section 12(a) of the Act, 415 ILCS 5/12(a) (1998), provides as follows:

No person shall:

- a. Cause or threaten or allow the discharge of any contaminants in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as

to violate regulations or standards adopted by the Pollution Control Board under this Act;

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

No person shall cause or allow operation of a sanitary landfill so as to cause or threaten or allow the discharge of any contamination into the environment in any State so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under the Act.

22. Respondent, a corporation which operates a landfill in Illinois is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

23. Section 3.06 of the Act, 415 ILCS 5/3.06 (1998), defines "contaminant" as "any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source."

24. The leachate the Illinois EPA inspector observed in the north perimeter ditch is a contaminant as that term is defined at Section 3.06 of the Act, 415 ILCS 5/3.06 (1998).

25. Section 3.56 of the Act, 416 ILCS 5/3.56 (1998), defines waters as "all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through or border upon this State."

26. The Illinois River into which leachate from the north perimeter ditch located on the site eventually drains, is a water of the state of Illinois as that term is defined at Section 3.56 of the Act, 415 ILCS 5/3.56 (1998).

27. Section 3.55 of the Act, 415 ILCS 5.3/55 (1998), defines "water pollution" as follows:

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

28. Causing or allowing leachate, a contaminant, to flow into the north perimeter ditch which eventually drains or discharges into the Illinois River constitutes water pollution as that term is defined at Section 3.55 of the Act, 415 ILCS 5/3.55 (1998).

29. By causing or allowing leachate to flow off-site to the Illinois River, Respondent has violated Sections 12(a) and 21(d)(2) of the Act, 415 ILCS 5/12(a) and 21(d)(2) (1998), and Section 807.313 of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.313.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count VI:

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

2. Finding that Respondent has violated Sections 12(a) and 21(d)(2) of the Act and Section 807.313 of the Board's Waste Disposal Regulations;

3. Ordering Respondent to cease and desist from any further

violations of Sections 12(a) and 21(d)(2) of the Act and Section 807.313 of the Board's Waste Disposal Regulations;

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

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

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

COUNT VII

**DEPOSITING OF WASTE IN UNPERMITTED
PORTIONS OF A LANDFILL**

1-12. Complainant realleges and incorporates by reference herein, paragraphs 1 through 12 of Count I as paragraphs 1 through 12 of this Count VII as if fully set forth herein.

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

14. Supplemental developmental permit number 1989-005-SP that was issued to Respondent on June 5, 1989, specifically incorporated as part of said permit, Respondent's final plans, specifications, application and supporting documents that were submitted by Respondent and approved by the Illinois EPA.

15. Respondent's supplemental development permit application

which was incorporated as part of supplemental development permit number 1989-005-SP issued to Respondent, provides the maximum elevation for the landfill as 580 feet above mean sea level.

16. Respondent was therefore required not to exceed the landfill elevation of 580 feet above mean sea level.

17. On August 5, 1996, Respondent filed with the Illinois EPA, an application for significant modification of parcel B. The application contained a map which shows the current condition of parcel B.

18. The map referenced in paragraph 17 above, shows the current elevation for parcel B to be at least 590 feet above mean sea level. A ten feet increase over the permitted elevation.

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

20. As of July 20, 1999 or on dates better known to Respondent, portions of Parcel B exceeded 580 feet above mean sea level.

21. Section 21(o)(9) of the Act, 415 ILCS 5/21(o)(9) (1998), provides as follows:

No person shall:

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

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

22. Respondent, a corporation which operates a landfill in Illinois, is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

23. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (1998).

24. On and before August 5, 1996 or a date better known to Respondent and continuing until the filing of this Second Amended Complaint herein, Respondent deposited refuse in unpermitted portions of parcel B. Respondent did not have a permit issued by the Illinois EPA to deposit refuse above its permitted elevation of 580 feet above mean sea level.

25. By depositing refuse or waste in portions of parcel B above its permitted elevation, Respondent violated Section 21(o)(9) of the Act, 415 ILCS 5/21(o)(9) (1998).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count VII:

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

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

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

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent for each violation, and an addition civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;

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

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

COUNT VIII

CONDUCTING A WASTE DISPOSAL OPERATION WITHOUT A PERMIT

1-20. Complainant realleges and incorporates by reference herein paragraphs 1 through 20 of Count VII as paragraphs 1 through 20 of this Count VIII as if fully set forth herein.

21. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(1998), provides as follows:

No person shall:

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

1. without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

22. Respondent a corporation which operates a landfill in Illinois is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

23. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (1998).

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

25. Respondent did not have a permit for the disposal of waste above an elevation of 580 feet above mean sea level.

26. Since at least August 5, 1996, or a date better known to Respondent and continuing until the filing of this Second Amended Complaint, Respondent has waste in unpermitted portions of Parcel B of the landfill in violation of Section 21(d) (1) of the Act, 415 ILCS 5/21(d) (1) (1998).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC with respect to Count VIII:

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

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

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

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

violation;

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

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

COUNT IX

OPEN DUMPING

1-20. Complainant realleges and incorporates by reference herein paragraphs 1 through 20 of Count VII as paragraphs 1 through 20 of this Count IX as if fully set forth herein.

21. Section 21(a) of the Act, 415 ILCS 5/21(a) (1998), provides as follows:

No person shall:

a. Cause or allow the open dumping of any waste.

22. Section 3.26 of the Act, 415 ILCS 5/3.26 (1998), provides the following definition:

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

23. Sections 3.31 and 3.43 of the Act, 415 ILCS 5/3.31, 3.43 (1998), provides the following definitions, respectively:

"REFUSE" means waste.

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

24. The landfill is a "disposal site" as those terms are defined

in the Act.

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

26. The consolidation of refuse at the site on Parcel B above the permitted elevation of 580 feet above mean sea level, disposal areas that do not fulfill the requirements of a sanitary landfill, constitutes "open dumping" as that term is defined in Section 3.24 of the Act, 415 ILCS 5/3.24 (1998).

27. Respondent, by its conduct described herein, has and continues to violate Section 21(a) of the Act, 415 ILCS 5/21(a) (1998).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count IX:

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

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

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

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

day of violation;

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

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

COUNT X

VIOLATION OF STANDARD CONDITION 3

1-20. Complainant realleges and incorporates by reference herein, paragraphs 1 through 20 of Count VII as paragraphs 1 through 20 of this Count X as if fully set forth herein.

21. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(1998), provides as follows:

No person shall:

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

1. without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

22. Respondent, a corporation which operates a landfill in Illinois is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

23. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (1998).

24. Standard condition number 3 of supplemental development permit number 1989-005-SP which was issued to Respondent on June 5,

1989, provides as follows:

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

25. Respondent was required by standard condition number 3 of its supplemental development permit number 1989-005-SP, to obtain a supplemental permit in order to increase its landfill elevation above the permitted limit, before depositing waste in the landfill above the permitted limit of 580 feet above mean sea level.

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

27. Respondent, by its conduct described herein, has and continues to violate standard condition number 3 of its supplemental development permit number 1989-005-SP, and thereby, also violates Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (1998).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count X:

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

2. Finding that Respondent has caused or allowed violations of Section 21(d)(1) of the Act and standard condition number 3 of permit

number 1989-005-SP;

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

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

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

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

COUNT XI

IMPROPER HANDLING OF ASBESTOS CONTAINING WASTE MATERIALS

1-12. Complainant realleges and incorporates by reference herein, paragraphs 1 through 7, 14, and 19-20 of Count I as paragraphs 1 through 12 of this Count XI as if fully set forth herein.

13. Section 9.1(d) of the Act, 415 ILCS 5/9.1(d)(1998), provides as follows:

No person shall:

1. Violate any provisions of Sections 111, 112, 165, 173 of the Clean Air Act, as now or hereafter amended, or federal regulations adopted pursuant thereto; or
2. Construct, install, modify or operate any equipment, building, facility, source or installation which is subject to regulation under Sections 111, 112, 165 or 173 of the Clean Air Act, as now or hereafter amended, except in

compliance with the requirements of such Sections and federal regulations adopted pursuant thereto, and no such action shall be undertaken without a permit granted by the Agency or in violation of any conditions imposed by such permit. Any denial of such a permit or any conditions imposed in such a permit shall be reviewable by the Board in accordance with Section 40 of this Act.

14. Pursuant to Section 112 of the Clean Air Act, as amended, the United States Environmental Protection Agency ("USEPA") has adopted a national emission standard for hazardous air pollutants (NESHAP) for asbestos, 40 CFR 61, Subpart M.

15. Section 61.141 of Title 40 of the Code of Federal Regulations, 40 CFR 61.141 (July 1, 1991), adopted pursuant to the Clean Air Act, provides the following definitions:

All terms that are used in this subpart and are not defined below are given the same meaning as in the Act and in subpart A of this part.

Asbestos means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite.

Asbestos-containing waste materials means mill tailings or any waste that contains commercial asbestos and is generated by a source subject to the provisions of this subpart. This term includes filters from control devices, friable asbestos waste material, and bags or other similar packaging contaminated with commercial asbestos. As applied to demolition and renovation operations, this term also includes regulated asbestos-containing material waste and materials contaminated with asbestos including disposable equipment and clothing.

16. Section 61.154 of Title 40 of the Code of Federal Regulations, 40 CFR 61.154 (July 1, 1991), as adopted in Section 9.1(d) of the Act, titled Standard for active waste disposal sites: provides, in pertinent part, as follows:

Each owner or operator of an active waste disposal site that receives asbestos containing waste material from a source covered under [Sections] 61.149, 61.150 or 61.155 shall meet the requirements of this section:

- (a) Either there must be no visible emissions to the outside air from any active waste disposal site where asbestos containing waste material has been deposited, or the requirements of paragraph (c) or (d) of this section must be met.

• * *

- (c) Rather than meet the no visible emission requirement of paragraph (a) of this section, at the end of each operating day, or at least once every 24-hour period while the site is in continuous operation, the asbestos containing waste material that has been deposited at the site during the operating day or previous 24-hour period shall:

- (1) Be covered with at least 15 centimeters (6 inches) of compacted nonasbestos-containing material, or
- (2) Be covered with a resinous or petroleum-based dust suppression agent that effectively binds dust and controls wind erosion. Such an agent shall be used in the manner and frequency recommended for the particular dust by the dust suppression agent manufacturer to achieve and maintain dust control. Other equally effective dust suppression agents maybe used upon prior approval by the Administrator. For purposes of this paragraph, any used, spent, or other waste oil is not considered a dust suppression agent.

• * *

- (f) Maintain, until closure, records of the location, depth and area, and quantity in cubic meters (cubic yards) of asbestos-containing waste material within the disposal site on a map or diagram of the disposal area.

17. On May 11, 1999 there were exposed bags of asbestos containing waste material ("ACWM") that were dumped on the site in the week prior to that inspection.

18. On May 11, 1999, many of the uncovered bags of ACWM were torn open and strewn about the landfill, thereby allowing the release of asbestos fibers and failing to prevent visible emissions from the active landfilling of ACWM. in violation of 40 CFR 61.154(a).

19. On May 11, 1999, Respondent did not have any records indicating the location, depth, area and quantity of ACWM within the landfill in violation of 40 CFR 61.154(f).

20. On at least May 11, 1999, and beginning on a date or dates better known to Respondent, Respondent failed to cover the ACWM at the end of each operating day or within a 24-hour period in violation of 40 CFR 61.154(c).

21. By the actions alleged herein, Respondent has violated Section 9.1 of the Act and 40 CFR 61.154.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent, and:

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

2. Finding that Respondent has violated Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (1998), and 40 CFR 61.154;

3. Ordering Respondent to submit proper records of the indicating the location, depth, area and quantity of ACWM within the

landfill, and to keep accurate records for any ACEM it accepts;

4. Ordering Respondent to Cease and Desist from any future violations of Section 9.1(d) of the Act, 415 ILCS 5/9.1(d) (1998), and 40 CFR 61.154;

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

6. Assessing all costs against Respondent, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (1998), including expert witness, consultant, and attorney fees; and

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

COUNT XII

CONDUCTING A WASTE DISPOSAL OPERATION WITHOUT A PERMIT

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

23. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (1998), provides as follows:

No person shall:

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

1. without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

24. Respondent a corporation which operates a landfill in Illinois is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

25. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (1998).

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

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

28. In order to meet the requirements of Subpart C of Part 814, a facility must comply with the requirements of 35 Ill. Adm. Code: Subtitle G, Part 811, including, but not limited to the requirements of 811.704. Section 811.704 of 35 Ill. Adm. Code requires the post-closure cost estimates shall be "based on the assumption that the Agency will contract with a third party to implement the closure plan".

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

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

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

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

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

- (a) All operators of landfills permitted pursuant to Section 21(d) of the Environmental Protection Act, (Act) (Ill. Rev. Stat. 1989, ch. 111 ½, par. 1021(d)) [now 415 ILCS 5/21(d) (1998)] shall file an application for a significant modification to their permits for existing units, unless the units will be closed pursuant to Subpart E within two years of the effective date of this Part.

*

*

*

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

33. Forty Eight (48) months from the effective date of Part 814

was September 18, 1994.

34. The Illinois EPA specified in writing that Respondent was to submit its application for significant modification of its permit by June 15, 1993.

35. Respondent failed to submit its application by June 15, 1993.

36. On April 26, 1995, Respondent filed a petition for variance with the Board.

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

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

39. Respondent filed its application for significant modification on August 5, 1996, within the 45 days allowed by the prospective variance.

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

41. By failing to demonstrate the ability to comply with Part

811 of the Board's Waste Disposal Regulations, Respondent does not meet the requirements of 814 Subpart C, and therefore is subject to the requirements of Subpart D including the requirement that it initiate closure of the site by September 18, 1997.

42. By failing to file a timely application for significant modification, Respondent had no legal authority to continue accepting waste at the facility past September 18, 1997.

44. Respondent has been accepting waste in Parcel A at the facility from September 18, 1997 through the date of filing of this Second Amended Complaint.

45. By accepting waste in Parcel A after September 18, 1997, Respondent violated Section 21(d) of the Act, 415 ILCS 5/21(d) (1998), and 35 Ill. Adm. Code 814.301(b) and 814.401.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC with respect to Count XII:

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

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

3. Ordering Respondent to cease and desist from any further violations of Section 21(d) of the Act and 35 Ill. Adm. Code 814.301 and 814.401

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

5. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent for each violation, and an additional civil penalty of Ten Thousand (\$10,000.00) per day for each day of violation;

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

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

COUNT XIII

IMPROPER DISPOSAL OF USED TIRES

1-12. Complainant realleges and incorporates by reference herein, paragraphs 1 through 8, 10 through 12 and 14, of Count I as paragraphs 1 through 12 of this Count XIII as if fully set forth herein.

13. Section 55(b-1) of the Act, 415 ILCS 5/55(b-1) (1998), provides, in pertinent part, as follows:

b-1 Beginning January 1, 1995, no person shall knowingly mix any used or waste tire, either whole or cut, with municipal waste, and no owner or operator of a sanitary landfill shall accept any used or waste tire for final disposal; except that used or waste tires, when separated from other waste, may be accepted if: (1) the sanitary landfill provides and maintains a means for shredding, slitting, or chopping whole tires and so treats whole tires and, if approved by the Agency in a permit issued under this Act, uses the used or waste tires for alternative uses, which may include on-site practices such as lining of roadways with tire scraps, alternative daily cover, or use in a leachate collection system or (2) the sanitary landfill, by its notification to the Illinois Industrial Materials Exchange Service, makes available the used or waste tires to an appropriate facility for

reuse, reprocessing, or converting, including use as an alternative energy fuel.

14. On July 28, 1998, Respondent was mixing waste tires with municipal waste and placing them in the active area of Parcel A of the landfill for disposal.

16. By the actions described herein, Respondent has violated Section 55(b-1) of the Act.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count XIII:

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

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

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

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

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

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

COUNT XIV

VIOLATION OF PERMIT CONDITION

1-20. Complainant realleges and incorporates by reference herein, paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count XIV as if fully set forth herein.

21. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(1998), provides as follows:

No person shall:

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

1. without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

22. Respondent, a corporation which operates a landfill in Illinois, is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

23. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (1998).

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

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

25. Respondent was required by special condition number 13 of its supplemental development permit number 1989-005-SP, to utilize movable fencing to prevent blowing litter when the refuse fill is at a

higher elevation than the natural ground line.

26. On March, 31, 1999, a windy day, Respondent did not use movable fencing even though the fill was at a higher elevation than the natural ground line and litter was blowing all over the landfill.

27. Respondent, by its conduct described herein, violated special condition number 13 of its supplemental development permit number 1989-005-SP, and thereby, also violates Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (1998).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count XIV:

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

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

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

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

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

pursuit of this action; and

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

COUNT XV

VIOLATION OF PERMIT CONDITION

1-20. Complainant realleges and incorporates by reference herein, paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count XV as if fully set forth herein.

21. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(1998), provides as follows:

No person shall:

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

1. without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

22. Respondent, a corporation which operates a landfill in Illinois, is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

23. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (1998).

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

This permit allows the development and construction of an active gas management system and a gas flare. Prior to operation of the gas control facility, the applicant shall

provide to the Agency the following information, certified by a registered professional engineer.

- a) "as built" construction plans;
- b) boring logs for the gas extraction wells;
- c) any changes to the operation and maintenance of the system;
- d) contingency plan describing the emergency procedures that will be implemented in the event of a fire or explosion at the facility; and
- e) permit numbers from the Agency's Bureaus of Air and Water.

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

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

26. On or about March 31, 1999, or on a date or dates better known to Respondent, Respondent began operation of the gas control facility at the site without providing the necessary information to the Illinois EPA.

27. On May 5, 1999, the Illinois EPA received Respondents' submittal regarding an operating authorization request for the landfill gas management system Dated April 22, 1999.

28. Respondent, by its conduct described herein, violated special condition number 1 of its supplemental development permit number 1996-240-SP, and thereby, also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (1998).

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

CLC, with respect to Count XV:

1. Authorizing a hearing in this matter at which time the Respondent will be required to answer the allegations herein;
2. Finding that Respondent has caused or allowed violations of Section 21(d)(1) of the Act and special condition number 1 of permit number 1996-240-SP;
3. Ordering Respondent to cease and desist from any further violations of Section 21(d)(1) of the Act and special condition number 1 of permit number 1996-240-SP;
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent for each violation, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;
5. Requiring Respondent to pay all costs, including expert witness, consultant and attorney fees, expended by the State in the pursuit of this action; and
6. Granting such other relief as the Board deems appropriate.

COUNT XVI

VIOLATION OF PERMIT CONDITION

1-20. Complainant realleges and incorporates by reference herein, paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count XVI as if fully set forth herein.

21. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(1998), provides as follows:

No person shall:

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

1. without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

22. Respondent, a corporation which operates a landfill in Illinois, is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

23. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (1998).

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

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

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

26. On or about March 31, 1999, or on a date or dates better known to Respondent, on Parcel A, there was erosion, ponding and cracks over one inch wide at the facility, no vegetative cover, and no corrective action was being taken.

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

28. Respondent, by its conduct described herein, violated special condition number 9 of its supplemental development permit number 1996-240-SP, and thereby, also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (1998).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count XVI:

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

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

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

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

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

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

COUNT XVII

VIOLATION OF PERMIT CONDITION

1-20. Complainant realleges and incorporates by reference herein, paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count XVII as if fully set forth herein.

21. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(1998), provides as follows:

No person shall:

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

1. without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

22. Respondent, a corporation which operates a landfill in Illinois, is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

23. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (1998).

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

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

analytical results.

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

26. On or about March 31, 1999 and July 20, 1999, and continuing through to the present, or to a date or dates better known to Respondent, Respondent is placing leachate pumped from the landfill into new cells for added moisture and not disposing of it at a permitted facility.

27. Respondent, by its conduct described herein, has and continues to violate special condition number 11 of its supplemental development permit number 1996-240-SP, and thereby, also violates Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (1998).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count XVII:

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

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

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

improper use or disposal of leachate;

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

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

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

COUNT XVIII

VIOLATION OF PERMIT CONDITION

1-20. Complainant realleges and incorporates by reference herein, paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count XVIII as if fully set forth herein.

21. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(1998), provides as follows:

No person shall:

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

1. without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

22. Respondent, a corporation which operates a landfill in Illinois, is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

23. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (1998).

24. Special condition number 10 of supplemental development permit number 1996-240-SP, provides as follows:

Any penetration or disturbance of the final cover material at this facility caused by the construction of the gas control system shall be sealed or repaired to ensure that a minimum of two feet of compacted clay final cover exists above all buried appurtenances of the gas collection system.

25. Respondent was required by special condition number 10 of its supplemental development permit number 1996-240-SP, to ensure that a minimum of two feet of clay cover existed above the appurtenances which were supposed to be buried.

26. On or about July 20, 1999, and continuing through to the present, or to a date or dates better known to Respondent, the appurtenances which were to be buried per the permit application were exposed.

27. Respondent, by its conduct described herein, has and continues to violate special condition number 10 of its supplemental development permit number 1996-240-SP, and thereby, also violates Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (1998).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count XVII:

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

2. Finding that Respondent has caused or allowed violations of

Section 21(d) (1) of the Act and special condition number 10 of permit number 1996-240-SP;

3. Ordering Respondent to cease and desist from any further violations of Section 21(d) (1) of the Act and special condition number 10 of permit number 1996-240-SP;

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

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

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

COUNT XIX

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

1-20. Complainant realleges and incorporates by reference herein, paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count XIX as if fully set forth herein.

21. Section 21(d) (1) of the Act, 415 ILCS 5/21(d) (1) (1998), provides as follows:

No person shall:

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

1. without a permit granted by the Agency or in violation of any conditions imposed by such permit, including

periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

22. Respondent, a corporation which operates a landfill in Illinois, is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

23. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (1998).

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

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

25. Respondent was required by special condition number 13 of its supplemental development permit number 1996-240-SP, to provide the \$1,431,360.00 in financial assurance within 90 days from October 24, 1996 (January 22, 1997) and to increase this amount to \$1,439,720.00 prior to the operation of the gas extraction system.

26. Respondent did not increase its financial assurance to \$1,431,360.00 by January 22, 1997 (90 days from October 24, 1996).

27. Respondent did not provided financial assurance in the amount

of \$1,439,720.00 prior to the operation of the gas extraction system.

28. Respondent provided to the Illinois EPA a rider to its existing performance bond that increased the amount of financial assurance to \$1,439,720.00 on September 1, 1999.

29. Respondent, by its conduct described herein, violated special condition number 13 of its supplemental development permit number 1996-240-SP, and thereby, also violated Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (1998).

30. Respondent was out of compliance with special condition number 13 of its supplemental development permit number 1996-240-SP and Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(1998) from January 22, 1997 until September 1, 1999.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count XIX:

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

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

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

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent for each violation, and an additional

civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;

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

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

COUNT XX

VIOLATION OF PERMIT CONDITION

1-20. Complainant realleges and incorporates by reference herein, paragraphs 1 through 20 of Count I as paragraphs 1 through 20 of this Count XX as if fully set forth herein.

21. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(1998), provides as follows:

No person shall:

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

1. without a permit granted by the Agency or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to ensure compliance with this Act, and with regulations and standards adopted thereunder. . . .

22. Respondent, a corporation which operates a landfill in Illinois, is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998).

23. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (1998).

24. Special condition number 17 of supplemental development

permit number 1989-005-SP, provides, in pertinent part, as follows:

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

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

26. As of March 31, 1999, and July 20, 1999, and continuing until at least the date of filing of this Second Amended Complaint, or to a date or dates better known to Respondent, Respondent was placing leachate, a waste, in areas that had not been certified or approved by the Illinois EPA.

27. Respondent, by its conduct described herein, has and continues to violate special condition number 17 of its supplemental development permit number 1989-005-SP, and thereby, also violates Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (1998).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count XX:

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

2. Finding that Respondent has caused or allowed violations of Section 21(d)(1) of the Act and special condition number 17 of permit number 1989-005-SP;

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

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

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

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

COUNT XXI

FAILURE TO PROVIDE REVISED COST ESTIMATE
BY DECEMBER 26, 1994

1-13. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count XXI as if fully set forth herein.

14. Section 21.1(a) of the Act, 415 ILCS 5/21.1(a) (1998), provides as follows:

- a. Except as provided in subsection (a.5) no person other than the State of Illinois, its agencies and institutions, or a unit of local government shall conduct any waste disposal operation on or after March 1, 1985, which requires a permit under subsection (d) of Section 21 of this Act, unless such person has

posted with the Agency a performance bond or other security for the purpose of insuring closure of the site and post-closure care in accordance with this Act and regulations adopted thereunder.

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

No person shall conduct a waste disposal operation or indefinite storage operation which requires a permit under Section 21(d) of the Act unless such person has provided financial assurance in accordance with this Subpart.

- a) The financial assurance requirement does not apply to the State of Illinois, its agencies and institutions, or to any unit of local government; provided, however, that any other persons who conduct such a waste disposal operation on a site which may be owned or operated by such a government entity must provide financial assurance for closure and post-closure care of the site.

16. Respondent, a corporation which operates a landfill in Illinois, is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998), and as contemplated by Section 21.1(a) of the Act, 415 ILCS 5/21.1(a) (1998).

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

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

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

19. Respondent failed to provided a revised cost estimate by

December 26, 1994.

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

21. By failing to revise the cost estimate by December 26, 1994, as required by the April 20, 1993, supplemental permit, Respondent has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (1998), and Section 807.623(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.623(a).

22. Respondent was out of compliance with Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (1998), 35 Ill. Adm. Code 807.623(a) from December 26, 1994 until July 26, 1996.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count XXI:

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

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

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

4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent for each violation, and an additional

civil penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;

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

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

COUNT XXII

FAILURE TO PROVIDE REVISED COST ESTIMATE
BY JULY 26, 1998

1-13. Complainant realleges and incorporates by reference herein paragraphs 1 through 13 of Count I as paragraphs 1 through 13 of this Count XXII as if fully set forth herein.

14. Section 21.1(a) of the Act, 415 ILCS 5/21.1(a) (1998), provides as follows:

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

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

No person shall conduct a waste disposal operation or indefinite storage operation which requires a permit under Section 21(d) of the Act unless such person has provided financial assurance in accordance with this Subpart.

- a) The financial assurance requirement does not apply to the State of Illinois, its agencies and institutions,

or to any unit of local government; provided, however, that any other persons who conduct such a waste disposal operation on a site which may be owned or operated by such a government entity must provide financial assurance for closure and post-closure care of the site.

16. Respondent, a corporation which operates a landfill in Illinois, is a person as that term is defined at Section 3.26 of the Act, 415 ILCS 5/3.26 (1998), and as contemplated by Section 21.1(a) of the Act, 415 ILCS 5/21.1(a) (1998).

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

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

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

19. The Respondent was required to provide a revised cost estimate by July 26, 1998 in accordance with 35 Ill. Adm. Code 807.623(a).

20. As of the date of the filing of this Complaint, Respondent has failed to provide a revised cost estimate after July 26, 1998, pursuant to the requirements set forth in 35 Ill. Adm. Code part 807.

21. By failing to revise the cost estimate by July 26, 1998, Respondent has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (1998), and Section 807.623(a) of the Board's Waste

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

22. Respondent was out of compliance with Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2)(1998), 35 Ill. Adm. Code 807.623(a) from July 26, 1998 and continues to be out of compliance.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent CLC, with respect to Count XXII:

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

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

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

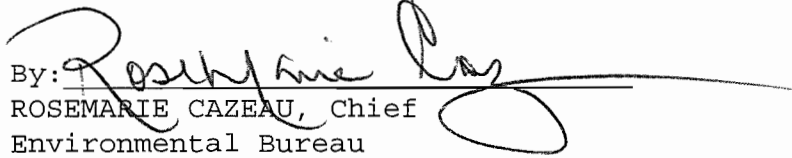
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent for each violation, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) per day of violation;

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

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

PEOPLE OF THE STATE OF ILLINOIS,
ex rel. JAMES E. RYAN, Attorney
General of the State of Illinois

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

By: 
ROSEMARIE CAZEAU, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL:
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(312) 814-2381
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CERTIFICATE OF SERVICE

I, Mike Mackoff, an Assistant Attorney General in this case, hereby certify that on the 24th day of November, 1999, I caused to be served by U.S. Mail, the foregoing Notice of Filing, Motion For Leave To File First Amended Complaint and First Amended Complaint upon:

Mark A. LaRose, Esq.	John Knittle
Mark A. LaRose, Ltd.	Hearing Officer
734 North Wells Street	Illinois Pollution Control Board
Chicago, IL 60610	100 W. Randolph St. 11 th Floor
	Chicago, IL 60601

by placing same in an envelope bearing sufficient postage, and depositing same with the United States Postal Service at 100 West Randolph Street, Chicago, Illinois, and to:

Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Chicago, IL 60601

by hand delivery:



MIKE MACKOFF