

ORIGINAL

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF 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.)

PCB No. 97-193
(Enforcement)

NOTICE OF FILING

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

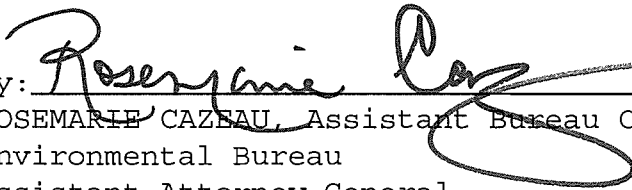
Mark A. LaRose, Esq.
Mark A. LaRose, Ltd.
734 North Wells Street
Chicago, IL 60610

Amy L. Jackson
Hearing Officer
Illinois Pollution Control Board
600 South Second Street, Suite 402
Springfield, IL 62704

PLEASE TAKE NOTICE that on April 3, 1998, I filed with the Clerk of the Illinois Pollution Control Board Complainant's Motion To File First Amended Complaint and First Amended Complaint, a copy of which is attached and herewith served upon you.

Respectfully submitted

JAMES E. RYAN
Attorney General
State of Illinois

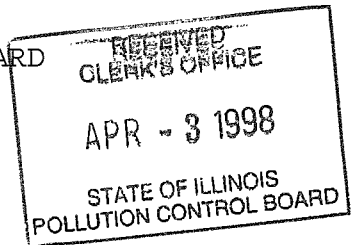
By: 
ROSEMARIE CAZEAU, Assistant Bureau Chief
Environmental Bureau
Assistant Attorney General
100 West Randolph Street, 11th Flr.
Chicago, IL 60601
(312) 814-3094

April 3, 1998

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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.)

PCB No. 97-193
(Enforcement)

MOTION TO FILE FIRST 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 First 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.

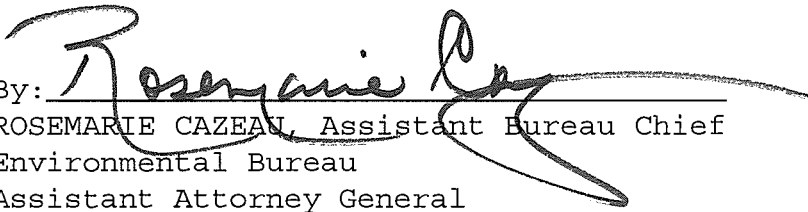
2. Since the filing of this action, additional matters have come to the attention of the Complainant warranting the amending of the complaint to add additional violations.

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.

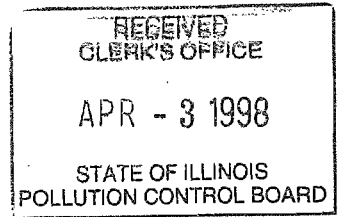
WHEREFORE, Complainant moves for leave to file its First Amended Complaint.

Respectfully submitted

JAMES E. RYAN
Attorney General
State of Illinois

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

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-)	PCB No. 97-193
)	(Enforcement)
COMMUNITY LANDFILL CO.,)	
an Illinois corporation,)	
)	
Respondent.)	

FIRST 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 and at the request of the Illinois Environmental Protection Agency, 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 and at the request of the Illinois Environmental Protection Agency ("Illinois EPA"), pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (1996).

2. The Illinois EPA is an administrative agency established in the executive branch of the state government by Section 4 of the

Act, 415 ILCS 5/4 (1996), 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 permitted 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 inactive.

7. Parcel B is approximately 64 acres in size and at all times relevant to this complaint continues to accept waste.

8. Section 3.08 of the Act, 415 ILCS 5/3.08 (1996), 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 (1996), 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 (1996), 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 (1996), 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 (1996), 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) (1996), 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, and May 22, 1995.

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. Section 21(o) of the Act, 415 ILCS 5/21(o) (1996), 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.

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 (1996).

21. 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.

22. Litter and refuse are waste as that term is defined in Section 3.53 of the Act, 415 ILCS 5/3.53 (1996).

23. By causing or allowing refuse to be disposed in perimeter ditches and the retention pond on March 22, 1995, and also in perimeter ditches on May 22, 1995, and also causing or allowing litter to remain exposed and uncontained around various areas of the site on April 7, 1994, March 22, 1995 and May 22, 1995, Respondent has caused or allowed a waste-storage or a waste-disposal operation.

24. 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) (1996).

25. 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) (1996).

26. By allowing litter to remain exposed and uncontained around various areas of the site on April 7, 1994, March 22, 1995, and May 22, 1995, the Respondent has violated Section 21(o)(12) of the Act, 415 ILCS 5/21(o)(12) (1996), 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) (1996).

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) (1996), 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 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 (1996).

21. 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) (1994), 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) (1996), 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. By landfilling landscape waste, Respondent has violated Section 22.22(c) of the Act, 415 ILCS 5/22.22(c) (1996).

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 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

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) (1996), 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 (1996), and as contemplated by Section 21.1(a) of the Act, 415 ILCS 5/21.1(a) (1996).

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. 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.

19. 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.

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

21. 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.

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

23. Respondent failed to provide a revised cost estimate by December 26, 1994.

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

25. By failing to provide adequate financial assurance Respondent has violated Section 21.1(a) of the Act, 415 ILCS 5/21.1(a) (1996), and Section 807.601(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.601(a).

26. By failing to adequately increase the financial assurance amount within 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) (1996), and Section 807.603(b)(1) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 807.603(b)(1).

27. By failing to revise the cost estimate by December 26, 1994, as required in its April 20, 1993, supplemental permit, Respondent has violated Section 21(d)(2) of the Act, 415 ILCS 5/21(d)(2) (1996), and Section 807.623(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.623(a).

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), 807.603(b)(1) and 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) and 21.1(a) of the Act, and Sections 807.601(a), 807.603(b)(1) and 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 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 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 (1996).

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. The Respondent filed the required significant modification for Parcel B on August 5, 1996.

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) (1996), 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 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 also 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) (1996), 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 (1996).

23. Section 3.06 of the Act, 415 ILCS 5/3.06 (1996), 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 (1996).

25. Section 3.56 of the Act, 416 ILCS 5/3.56 (1996), 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 (1996).

27. Section 3.55 of the Act, 415 ILCS 5.3/55 (1996), 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 (1996).

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) (1996), 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 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. Section 21(o)(9) of the Act, 415 ILCS 5/21(o)(9) (1996), 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.

21. 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 (1996).

22. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (1996).

23. On and before August 5, 1996 or a date better known to Respondent and continuing until the filing of this 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.

24. 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)(a) (1996).

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 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 VIII

CONDUCT OF A WASTE DISPOSAL OPERATION WITHOUT A PERMIT

1-19. Complainant realleges and incorporates by reference herein paragraphs 1 through 19 of Count VII as paragraphs 1 through 19 of this Count VIII as if fully set forth herein.

20. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(1996) 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. . . .

21. 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 (1996).

22. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (1996).

23. By causing or allowing refuse or waste to be deposited in parcel B 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.

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

25. Since at least August 5, 1996, or a date better known to Respondent and continuing until the filing of the complaint herein, Respondent deposited waste in unpermitted portions of parcel B, in violation of Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1) (1996).

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

1-19. Complainant realleges and incorporates by reference herein paragraphs 1 through 19 of Count VII as paragraphs 1 through 19 of this Count IX as if fully set forth herein.

20. Section 21(a) of the Act, 415 ILCS 5/21(a) (1996), provides as follows:

No person shall:

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

21. Section 3.26 of the Act, 415 ILCS 5/3.26 (1996), 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.

22. Since at least August 5, 1996, or a date better known to Respondent and continuing until the filing of the complaint herein, Respondent has caused or allowed the consolidation of refuse on parcel B, above the permitted elevation of 580 feet above mean sea level.

23. The consolidation of refuse 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 (1996).

24. Respondent by its conduct described herein has and continues to violate Section 21(a) of the Act, 415 ILCS 5/21(a) (1996).

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

1-19. Complainant realleges and incorporates by reference herein, paragraphs 1 through 19 of Count VII as paragraphs 1 through 19 of this Count X as if fully set forth herein.

20. Section 21(d)(1) of the Act, 415 ILCS 5/21(d)(1)(1996) 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. . . .

21. 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 (1996).

22. Refuse is waste as that term is defined at Section 3.53 of the Act, 415 ILCS 5/3.53 (1996).

23. 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.

24. 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.

25. Since at least August 5, 1996, or a date better known to Respondent and continuing until the filing of the complaint herein, 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.

26. 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) (1996).

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;

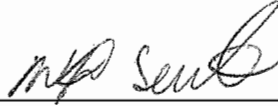
4. Assessing a civil penalty of Fifty Thousand Dollars (\$50,000.00) against Respondent for each violation, and an additional civil penalty of Ten Thousand Dollars (\$10,000.00) per day for each day of violation;

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.

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: 
WILLIAM D. SEITH, Chief
Environmental Bureau
Assistant Attorney General

OF COUNSEL:
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CERTIFICATE OF SERVICE

I, ROSEMARIE CAZEAU, an Assistant Attorney General in this case, hereby certify that on the 3rd day of April, 1998, I caused to be served by U.S. Mail, the foregoing Notice of Filing, Motion To File First Amended Complaint and First Amended Complaint upon:

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

Amy L. Jackson
Hearing Officer
Illinois Pollution Control Board
600 South Second Street, Suite 402
Springfield, IL 62704

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:


ROSEMARIE CAZEAU