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STATE OF ILLINOIS
POLLUTION CONTROL BOARD

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
)
 Complainant,)
)
 -vs-)
)
 COMMUNITY LANDFILL COMPANY, INC.,)
 an Illinois corporation,)
)
 Respondent.)

PCB No. 97-193
(Enforcement)

NOTICE OF FILING

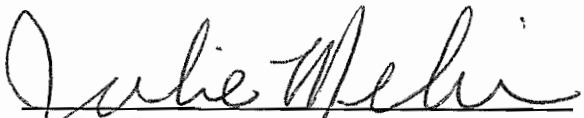
TO: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Street
Chicago, Illinois 60601

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

PLEASE TAKE NOTICE that on May 1, 1997, I filed with the Clerk of the Illinois Pollution Control Board a copy of the following instrument entitled COMPLAINT, a copy of which is attached and herewith served upon you.

Respectfully submitted,

JAMES E. RYAN
Attorney General of the
State of Illinois

BY: 
JULIE D. MELVIN
Assistant Attorney General
Environmental Bureau
100 West Randolph St., 11th Fl.
Chicago, IL 60601
(312) 814-3369

DATE: May 1, 1997

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STATE OF ILLINOIS
POLLUTION CONTROL BOARD

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)

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 COMPANY, INC., 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 ("Agency"), pursuant to Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31 (1994).

2. At all times relevant to this Complaint, Respondent, COMMUNITY LANDFILL COMPANY, INC., ("CLC"), an Illinois corporation, has operated a permitted landfill located at 1501 Ashley Road, Morris, Grundy County, Illinois, ("landfill" or "site").

3. 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.

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

5. Parcel A is approximately 55 acres in size and is currently inactive.

6. Parcel B is approximately 64 acres in size and continues to accept waste.

7. On the following dates the Agency conducted an inspection of the site: August 18, 1993, April 7, 1994, March 22, 1995, May 22, 1995, November 7, 1995, and July 11, 1996.

8. Section 3.08 of the Act, 415 ILCS 5/3.08 (1994), 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 (1994), 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 3.41 of the Act, 415 ILCS 5/3.41 (1994), 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.

11. Section 3.53 of the Act, 415 ILCS 5/3.53 (1994), 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.

12. 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.

13. During the March 22, 1995, inspection, the Agency inspector observed refuse in a perimeter ditch and in a retention pond at the landfill and litter was observed at the northeast perimeter ditch and fence line.

14. During the May 22, 1995, inspection, the Agency inspector observed refuse and litter in the perimeter ditches.

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

16. Section 21(d) (2) of the Act, 415 ILCS 5/21(d) (2) (1994), 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

* * *

17. Section 21(o) of the Act, 415 ILCS 5/21(o) (1994), 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.

18. 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.

19. 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) (1994).

20. 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) (1994).

21. 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 Sections 21(d) (2) and 21(o) (12) of the Act, 415 ILCS 5/21(o) (12) (1994), and Section 807.306 of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 807.306.

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order against Respondent, COMMUNITY LANDFILL COMPANY, INC., 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

1-16. Complainant realleges and incorporates by reference herein paragraphs 1 through 16 of Count I as paragraphs 1 through 16 of this Count II as if fully set forth herein.

17. Section 21(o) of the Act, 415 ILCS 5/21(o) (1994), 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);

* * *

18. 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;

19. During the April 7, 1994, inspection, the Agency inspector observed five leachate seeps along the northwest perimeter of Parcel B.

20. During the March 22, 1995, inspection, the Agency inspector observed numerous leachate seeps at the northwest perimeter of the landfill.

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

22. 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

1-16. Complainant realleges and incorporates by reference herein paragraphs 1 through 16 of Count I as paragraphs 1 through 16 of this Count III as if fully set forth herein.

17. Section 22.22(c) of the Act, 415 ILCS 5/22.22(c) (1994), 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.

18. During the August 18, 1993, and April 7, 1994, inspections, the Agency inspector observed that landscape waste had been deposited in the landfill area.

19. By landfilling landscape waste, Respondent has violated Section 22.2(c) of the Act, 415 ILCS 5/22.22(c) (1994).

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 22.2(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**

1-16. Complainant realleges and incorporates by reference herein paragraphs 1 through 16 of Count I as paragraphs 1 through 16 of this Count IV as if fully set forth herein.

17. Section 21.1(a) of the Act, 415 ILCS 5/21.1(a) (1994), 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.

18. 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.

19. 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;

20. 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.
21. 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.
22. Item 3 of Respondent's supplemental permit dated April 20, 1993, provided the Respondent's current cost estimate was \$1,342,500.00.
23. 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.
24. Item 9 of Respondent's supplemental permit dated April 20, 1993, provided that the next revised cost estimate was due by December 26, 1994.
25. Respondent failed to provide a revised cost estimate by December 26, 1994.
26. Respondent finally provided a performance bond on June 20, 1996.
27. By failing to provide adequate financial assurance Respondent has violated Section 21.1(a) of the Act, 415 ILCS

5/21.1(a) (1994), and Section 807.601(a) of the Board's Waste Disposal Regulations, 35 Ill. Adm. Code 807.601(a).

28. 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) (1994), and Section 807.603(b)(1) of the Board Waste Disposal Regulations, 35 Ill. Adm. Code 807.603(b)(1).

29. 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) (1994), 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

1-16. Complainant realleges and incorporates by reference herein paragraphs 1 through 16 of Count I as paragraphs 1 through 16 of this Count V as if fully set forth herein.

17. 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 1/2, 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.

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

19. The Respondent filed a petition for variance on April 26, 1995, which was eventually granted prospectively.

20. 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)(1994), 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

1-16. Complainant realleges and incorporates by reference herein, paragraphs 1 through 16 of Count I as paragraphs 1 through 16 of this Count VI as if fully set forth herein.

17. Section 12(a) of the Act, 415 ILCS 5/12(a) (1994), 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;

18. 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.

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

20. By allowing leachate to flow off site toward 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) (1994), 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.

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:
JULIE D. MELVIN
Assistant Attorney General
100 West Randolph Street, 11th Floor
Chicago, IL 60601
(312) 814-3369
c:\wpwin60\wpdocs\julie\comunt.cmp

CERTIFICATE OF SERVICE

I, JULIE D. MELVIN, an Assistant Attorney General in this case, hereby certify that on the 1st day of May, 1997 I caused to be served, by U.S. Mail, the foregoing Notice of Filing and Complaint upon:

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

by placing same in an envelope, postage prepaid, and depositing same with the United States Postal Service at 100 West Randolph Street, Chicago, Illinois; and

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

by hand delivery.


JULIE D. MELVIN