

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF ILLINOIS,)
LISA MADIGAN, Attorney General of the)
State of Illinois,)

Complainant,)

v.)

PCB No. 13-
(Enforcement – Water)

ATKINSON LANDFILL COMPANY,,)
an Illinois corporation,)

Respondent.)

NOTICE OF FILING

TO: Mr. Branko Vardijan
221 N. Washtenaw Avenue
Chicago, Illinois 60612

Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Ste. 11-500
Chicago, Illinois 60601

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board a Complaint, Notice of Filing, and a Certificate of Service on behalf of the People of the State of Illinois, a copy of which is attached and herewith served upon you.

Section 103.204(f) of the Pollution Control Board Procedural Rules, 35 Ill. Adm. Code 103.204(f) provides: "Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure,

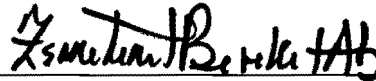
you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney."

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

LISA MADIGAN
Attorney General
State of Illinois

BY:



ZEMEHERET BEREKET-AB
Assistant Attorney General
Environmental Bureau
69 W. Washington St., 18th Flr.
Chicago, IL 60602
(312) 814-3816

DATE: December 17, 2012

THIS FILING IS SUBMITTED ON RECYCLED PAPER

4. At all times relevant to this Complaint, Respondent owns and operates an active municipal solid waste landfill located at 1378 Commercial Drive, Atkinson, Henry County, Illinois. Respondent operates the landfill under Permit No. 2001-021-LFM, Modification No. 5, Log No. 2010-068, issued by the Illinois EPA on April 21, 2010.

5. On April 3, 2008, the Illinois EPA issued Water Pollution Control Permit No. 2008-EO-0331 ("Permit") to Respondent. The Permit allowed Respondent to haul and dispose approximately 12,000 gallons per day (Daily Maximum Flow of 12,000 gpd) of landfill leachate to the head works of the Village of Atkinson Sewage Treatment Plant ("Village STP"). The Village STP is located at 19696 East 2200 Street, Atkinson, Henry County, Illinois and discharges its effluent to the Green River.

6. On August 24, 2011, the Illinois EPA conducted a compliance inspection at the Village STP. Records from the Village STP showed that during the months of March and April 2011, Respondent had disposed of leachate at the Village STP in excess of the 12,000 gallons per day limit allowed by the Permit. The dates and amounts of leachate disposed at the Village STP are as follows:

<u>Date</u>	<u>Amount</u>	<u>Date</u>	<u>Amount</u>
March 16, 2011	16,960 gallons	April 1, 2011	42,400 gallons
March 17, 2011	12,720 gallons	April 4, 2011	38,160 gallons
March 18, 2011	12,720 gallons	April 5, 2011	42,400 gallons
March 21, 2011	12,720 gallons	April 6, 2011	42,400 gallons
March 22, 2011	12,720 gallons	April 7, 2011	42,400 gallons
March 23, 2011	12,720 gallons	April 8, 2011	25,440 gallons
March 24, 2011	12,720 gallons	April 9, 2011	38,160 gallons
March 25, 2011	12,720 gallons	April 11, 2011	50,880 gallons
March 28, 2011	12,720 gallons	April 12, 2011	50,880 gallons
March 29, 2011	12,720 gallons		
March 30, 2011	42,400 gallons		
March 31, 2011	21,200 gallons		

7. Respondent also disposed of leachate in a manhole upstream of the Village's STP instead of at the headworks of the Village STP as required by the Permit.

8. The discharge of certain types of wastewater, including leachate generated by landfills, may cause serious harm to the Village STP by upsetting the treatment process, interfering with the normal operation of the STP, passing through the STP untreated, or causing conditions at the STP which may be harmful to STP workers.

9. Sometime in April 2011, the Village of Atkinson halted accepting leachate from Respondent.

10. Section 12(a) of the Act, 415 ILCS 5/12(a) (2010), provide as follows:

No person shall:

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

11. Section 3.315 of the Act, 415 ILCS 5/3.315 (2010), provides, as follows:

"PERSON" is an 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.

12. Respondent, an Illinois corporation, is a "person", as that term is defined by Section 3.315 of the Act, 415 ILCS 5/3.315 (2010).

13. Section 3.550 of the Act, 415 ILCS 5/3.550 (2010), provides as follows:

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

14. The Green River is "waters", as that term is defined by Section 3.550 of the Act, 415 ILCS 5/3.550 (2010).

15. Section 3.165 of the Act, 415 ILCS 5/3.165 (2010), provides the following definition:

“Contaminant” is any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.

16. The leachate that is generated at the Respondent’s Landfill is a "contaminant" as that term is defined by Section 3.165 of the Act, 415 ILCS 5/3.165 (2010).

17. Section 3.545 of the Act, 415 ILCS 5/3.545 (2010), contains the following definition:

"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.

18. Respondent, by disposing of leachate, a contaminant, at the Village STP in excess of the limits imposed by the Permit, which may cause serious harm to the Village STP by upsetting the treatment process, interfering with the normal operation of the STP, passing through the STP untreated, or causing conditions at the STP which may be harmful to STP workers, caused, threatened, or allowed water pollution, in violation of Section 12(a) of the Act, 415 ILCS 12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count I.

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

2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);

3. Ordering the Respondent to cease and desist from any further violations of Section 12 (a) of the Act, 415 ILCS 5/12 (a) (2010);
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Ordering Respondent to pay all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

COUNT II

VIOLATION OF PERMIT REQUIREMENTS

1. This Count is brought on behalf of THE PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, on her own motion, pursuant to the terms and provisions of Section 31 of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/31(2010).
 - 2-16. Complainant realleges and incorporates by reference herein paragraphs 2 through 9 and 11 through 17 of Count I as paragraphs 2 through 16 of this Count II.
 17. Section 12(b) and (c) of the Act, 415 ILCS 5/12(b) and (c) (2010), provides as follows:

No person shall:

 - (b) Construct, install, or operate any equipment, facility, vessel, or aircraft capable of or contributing to water pollution, or designed to prevent water pollution, of any type designated by Board regulations, without a permit granted by the Agency, or in violation of any conditions imposed by such permit.

- (c) Increase the quantity or strength of any discharge of contaminants into the waters, or construct or install any sewer or sewage treatment facility or any new outlet for contaminants into the waters of this State, without a permit granted by the Agency.

18. Section 309.204(a) of the Illinois Pollution Control Board Water Pollution Regulations, 35 Ill. Adm. Code 309.204(a), titled, Operating Permits; Existing Sources, provides as follows:

- a) No person shall cause or allow the use or operation of any treatment works, pretreatment works or wastewater source without an operating permit issued by the Agency, except as provided in subsections (b), (c) and (d).

19. The hauling and disposal of leachate from Respondent's landfill to the Village STP was capable of or contributed to water pollution.

20. By disposing of contaminants into the Village STP in March and April 2011, in violation of its Permit limits and by disposing of leachate in a manhole upstream of the Village STP instead of at the head works of the Village STP in violation of its Permit, Respondent violated Section 12(b) of the Act, 415 ILCS 5/12(b) (2010).

21. By increasing the quantity or strength of the discharge of contaminants at the Village STP without an operating permit issued by the Illinois EPA, Respondent violated Sections 12 (b) and (c) of the Act, 415 ILCS 5/12 (b) and (c) (2010), and 35 Ill. Adm. Code 309.204(a).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count II.

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

2. Finding that Respondent has violated Sections 12(b) and (c) of the Act, 415 ILCS 5/12(b) and (c) (2010), and 35 Ill. Adm. Code 309.204(a);

3. Ordering the Respondent to cease and desist from any further violations of Sections 12 (b) and (c) of the Act, 415 ILCS 5/12 (b) and (c) (2010), and 35 Ill. Adm. Code 309.204 (a);

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

5. Taxing all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

VIOLATIONS AT THE CITY OF GALVA WASTEWATER TREATMENT PLANT

COUNT III
WATER POLLUTION

1-11. Complainant realleges and incorporates by reference herein, paragraphs 1 through 4, 10 through 13, and 15 through 17 of Count I as paragraphs 1 through 11 of this Count III.

12. During the months of April and June 2011, Respondent started hauling and disposing of leachate at the City of Galva wastewater treatment facility ("Galva WWTF"). The Galva WWTF discharges its effluent to the Edwards River.

13. Illinois EPA reviews of Hazardous Waste Manifest records maintained at the City of Galva show that between May 4, 2011, and June 16, 2011, Respondent disposed a total of 202,750 gallons of leachate at the Galva WWTF in the following manner:

006301439	5/4/11	3,000 gallons	006301497	6/1/11	5,000 gallons
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006301441	5/5/11	6,000 gallons	006301498	6/1/11	5,000 gallons
006301442	5/4/11	3,750 gallons	006301878	6/2/11	5,000 gallons
006301443	5/5/11	5,000 gallons	006301879	6/2/11	5,000 gallons
006301444	5/7/11	5,000 gallons	006301880	6/3/11	5,000 gallons
006301445	5/6/11	5,000 gallons	006301882	6/3/11	5,000 gallons
006301446	5/6/11	5,000 gallons	006301886	6/4/11	5,000 gallons
006301447	5/9/11	5,000 gallons	006301887	6/4/11	5,000 gallons
006301453	5/6/11	5,000 gallons	006301888	6/6/11	5,000 gallons
006301454	5/7/11	5,000 gallons	006301889	6/6/11	5,000 gallons
006301455	5/9/11	5,000 gallons	006301893	6/6/11	5,000 gallons
006301459	5/9/11	5,000 gallons	006301897	6/7/11	5,000 gallons
006301473	5/17/11	5,000 gallons	006301898	6/7/11	5,000 gallons
006301474	5/17/11	5,000 gallons	006301899	6/7/11	5,000 gallons
006301475	5/17/11	5,000 gallons	006301903	6/8/11	5,000 gallons
006301478	5/18/11	5,000 gallons	006301904	6/8/11	5,000 gallons
006301479	5/18/11	5,000 gallons	006301905	6/8/11	5,000 gallons
006301480	5/18/11	5,000 gallons	006301909	6/13/11	5,000 gallons
006301495	5/28/11	5,000 gallons	006301910	6/13/11	5,000 gallons
006301496	5/28/11	5,000 gallons	006301911	6/16/11	5,000 gallons
			006301917	6/16/11	5,000 gallons

14. The discharge of certain types of wastewater, including leachate generated by landfills, may cause serious harm to the Galva WWTF by upsetting the treatment process, interfering with the normal operation of the WWTF, passing through the WWTF untreated, or causing conditions at the WWTF which may be harmful to WWTF workers.

15. Sometime after June 16, 2011, the Galva WWTF stopped accepting leachate from Respondent.

16. The Edwards River into which the Galva WWTF discharges its effluent is a "water" of the State of Illinois, as that term is defined by Section 3.550 of the Act, 415 ILCS 5/3.550 (2010).

17. Prior to the period Respondent disposed of leachate at the Galva WWTF, the City of Galva had not certified or demonstrated to the Illinois EPA that it had adequate capacity to accept and treat the quantities of leachate Respondent sent it for treatment and discharge to the Edwards River.

18. Respondent, by disposing of leachate, a contaminant, at the Galva WWTF which may cause serious harm to the WWTF by upsetting the treatment process, interfering with the normal operation of the WWTF, passing through the WWTF untreated, or causing conditions at the WWTF which may be harmful to WWTF workers, caused, threatened or allowed water pollution in violation of Section 12(a) of the Act, 415 ILCS 5/12(a) (2010).

WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count III.

1. Authorizing a hearing in this matter at which time Respondent will be required to answer the allegations herein;
2. Finding that Respondent has violated Section 12(a) of the Act, 415 ILCS 5/12(a) (2010);
3. Ordering the Respondent to cease and desist from any further violations of Section 12 (a) of the Act, 415 ILCS 5/12 (a) (2010);
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Taxing all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and

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

COUNT IV

DISPOSING OF CONTAMINANTS WITHOUT A PERMIT

1-18. Complainant realleges and incorporates by reference herein, paragraphs 1 through 16 of Count III and paragraphs 17 and 18 of Count II as paragraphs 1 through 18 of this Count IV.

19. During the months of April and June 2011, when Respondent hauled leachate to the City of Galva WWTF for treatment, Respondent did not have a permit issued by the Illinois EPA that allowed it to dispose of leachate at the Galva WWTF.

20. The hauling and disposal of leachate from Respondent's landfill to the Galva WWTF was capable of or contributed to water pollution.

21. On December 21, 2011, the Illinois EPA issued Water Pollution Control Permit No. 2011-EP-2351 to Respondent to allow it to dispose of leachate at the Galva WWTF.

22. By disposing of contaminants into the Galva WWTF and contributing to water pollution without a permit granted by the Illinois EPA, Respondent violated Section 12(b) of the Act, 415 ILCS 5/12 (b) (2010), and 35 Ill. Adm. Code 309.204(a).

23. By increasing the quantity or strength of the discharge of contaminants at the Galva WWTF without an operating permit issued by the Illinois EPA, Respondent violated Section 12(c) of the Act, 415 ILCS 5/12(c) (2010), and 35 Ill. Adm. Code 309.204(a).

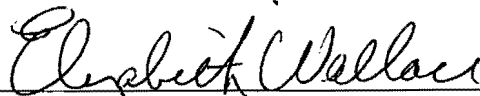
WHEREFORE, Complainant, PEOPLE OF THE STATE OF ILLINOIS, respectfully requests that the Board enter an order in favor of Complainant and against Respondent with respect to this Count IV.

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

2. Finding that Respondent has violated Sections 12 (b) and (c) of the Act, 415 ILCS 5/12 (b) and (c) (2010), and 35 Ill. Adm. Code 309.204(a);
3. Ordering the Respondent to cease and desist from any further violations of Sections 12 (b) and (c) of the Act, 415 ILCS 5/12 (b) and (c) (2010), and 35 Ill. Adm. Code 309.204 (a);
4. Assessing against Respondent a civil penalty of Fifty Thousand Dollars (\$50,000.00) for each violation of the Act, and pertinent Board regulations, with an additional penalty of Ten Thousand Dollars (\$10,000.00) for each day of violation;
5. Taxing all costs, pursuant to Section 42(f) of the Act, 415 ILCS 5/42(f) (2010), including attorney, expert witness, and consultant fees expended by the State in its pursuit of this action; and
6. Granting such other relief as the Board deems appropriate and just.

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

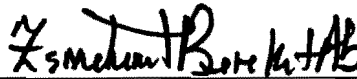
MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos
Litigation Division

By: 
ELIZABETH WALLACE, Chief
Environmental Bureau
Assistant Attorney General

Of Counsel
ZEMEHERET BERKET-AB
Assistant Attorney General
Environmental Bureau
69 W. Washington, Suite 1800
Chicago, Illinois 60602
(312) 814-3816

CERTIFICATE OF SERVICE

I, ZEMEHERET BEREKET-AB, an Assistant Attorney General, do certify that I caused to be served on this 17th day of December 2012, the foregoing Notice of Filing, and a Complaint, upon Mr. Branko Vardijan, via Certified mail by placing same in an envelope bearing sufficient postage with the United States Postal Service located at 100 West Randolph Street, Chicago, Illinois.



ZEMEHERET BEREKET-AB